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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 725]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to domestic markets during the period from July 8 through July 14, 1990. Consistent with program objectives, such action is needed to balance the supplies of fresh lemons with the demand for such lemons during the period specified. This action was recommended by the Lemon Administrative Committee (Committee), which is responsible for local administration of the lemon marketing order.

DATES: Regulation 725 (7 CFR part 910) is effective for the period from July 8 through July 14, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture (Department), Room 2524–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 910 (7 CFR part 910), as amended, regulating the handling of lemons grown in California and Arizona. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,000 lemon producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The California-Arizona lemon industry is characterized by a large number of growers located over a wide area. The production area is divided into three districts which span California and Arizona. The largest proportion of lemon production is located in District 2, Southern California, which represented 57 percent of total production in 1988–89. District 3 is the desert area of California and Arizona and represented 31 percent of 1988–89 production. District 1 in Central California represented 12 percent. The Committee's estimate of 1989–90 production is 39,324 cars (one car equals 1,000 cartons at 38 pounds net weight each), as compared with 41,759 cars during the 1988–89 season.

The three basic outlets for California-Arizona lemons are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona lemons. The Committee estimates that about 42 percent of the 1989–90 crop of 39,324 cars will be utilized in fresh domestic channels (16,500 cars), compared with the 1988–89 total of 16,500 cars, about 41 percent of the total production of 41,759 cars in 1988–89. Fresh exports are projected at 22 percent of the total 1989–90 crop utilization compared with 19 percent in 1988–89. Processed and other uses would account for the residual 36 percent compared with 39 percent of the 1988–89 crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 910 are intended to provide benefits to growers. Growers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of lemons in the market throughout the marketing season.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the lemon marketing order are required by the Committee from handlers of lemons. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance grower revenue. Prices for lemons tend to be relatively inelastic at the grower level. Thus, even a small variation in shipments can have a great impact on prices and grower revenue. Under these circumstances, strong arguments can be advanced to the benefits of regulation to growers, particularly smaller growers.

At the beginning of each marketing year, the Committee submits a marketing policy to the U.S. Department

of Agriculture (Department) which discusses, among other things, the potential use of volume and size regulations for the ensuing season. The Committee, in its 1989–90 season marketing policy, considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Rodriguez. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the volume regulations would be appropriate.

The Committee met publicly on July 3, 1990, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended that 410,000 cartons is the quantity of lemons deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, the preceding week's shipments and shipments to date, crop conditions, weather and transportation conditions, and a reevaluation of the prior week's recommendation in view of the above.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1989–90 marketing policy. This recommended amount is 40,000 cartons above the estimated projections in the shipping schedule.

During the week ending on June 30, 1990, shipments of lemons to fresh domestic markets, including Canada, totaled 413,000 cartons compared with 372,000 cartons shipped during the week ending on July 1, 1989. Export shipments totaled 183,000 cartons compared with 184,000 cartons shipped during the week ending on July 1, 1989. Processing and other uses accounted for 284,000 cartons compared with 142,000 cartons shipped during the week ending on July 1, 1989.

Fresh domestic shipments to date this season total 15,165,000 cartons compared with 14,971,000 cartons shipped by this time last season. Export shipments total 7,106,000 cartons compared with 7,557,000 cartons shipped by this time last season. Processing and other use shipments total 11,731,000 cartons compared with 15,136,000 cartons shipped by this time last season.

For the week ending on June 23, 1990, regulated shipments of lemons to the fresh domestic market were 413,000 cartons on an adjusted allotment of 395,000 cartons which resulted in net overshipments of 18,000 cartons. Regulated shipments for the current week (July 1 through July 7, 1990) are estimated at 400,000 cartons on an adjusted allotment of 382,000 cartons. Thus, overshipments of 18,000 cartons could be carried over into the week ending on July 14, 1990.

The average f.o.b. shipping point price for the week ending on June 30, 1990, was $14.16 per carton based on a reported sales volume of 423,000 cartons compared with last week's average of $14.77 per carton on a reported sales volume of 371,000 cartons. The season average f.o.b. shipping point price to date is $13.49 per carton. The average f.o.b. shipping point price for the week ending on June 30, 1989, was $14.77 per carton; the season average f.o.b. shipping point price at this time last season was $12.13 per carton.

The National Agricultural Statistics Service indicates a 1989–90 California-Arizona lemon crop of about 38,800,000 cartons, three percent less than the 1988–89 utilized production total of 40,000,000 cartons. However, 1989–90 fresh domestic use may total 16,500,000 cartons, about equal to that in 1988–89, as indicated in the Committee's schedule of weekly shipments.

The Department's Market News Service reported that, as of July 3, demand for first-grade fruit ranging in size from 95 to 165 is good and the market is "about steady" for all grades and sizes of lemons. At the meeting, most Committee members characterized demand as excellent on all sizes and grades of lemons. Several Committee members commenced on the continued high level of storage and the need to move that fruit in an orderly fashion. Committee members discussed different levels of volume regulation as well as open movement. The Committee unanimously recommended volume regulation for the period from July 8 through July 14, 1990.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1989–90 season average fresh on-tree price is estimated at $8.64, 115 percent of the projected season average fresh on-tree parity equivalent price of $7.50 per carton. The 1988–89 season average fresh equivalent on-tree price for California-Arizona lemons was $7.27 per carton, 105 percent of the 1988–89 parity equivalent price.

Limiting the quantity of lemons that may be shipped during the period from July 8 through July 14, 1990, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of lemons to market.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until July 3, 1990, and this action needs to be effective for the regulatory week which begins on July 8, 1990. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and Recordkeeping requirements.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Note.—This section will not appear in the Code of Federal Regulations.

2. Section 910.725 is added to read as follows:

§ 910.725 Lemon Regulation 725.

The quantity of lemons grown in California and Arizona which may be handled during the period from July 8

through July 14, 1990, is established at 410,000 cartons.

Dated: July 5, 1990.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 90-16034 Filed 7-6-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 911

[Docket No. FV-90-148FR]

Limes Grown in Florida; Relaxation of Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule relaxes container requirements currently in effect under the marketing order for fresh Florida limes by allowing handlers to use another container for domestic shipments. The Florida Lime Administrative Committee (committee) unanimously recommended this action at its March 14, 1990 meeting to provide handlers additional marketing flexibility. Container requirements provide that limes are packed in containers suitable for shipment to market, so that they remain in good condition during transit in the interest of growers, handlers, and consumers.

EFFECTIVE DATE: July 9, 1990.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone (202) 475-3918.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 911, both as amended (7 CFR Part 911), regulating the handling of limes grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 25 lime handlers subject to regulation under the marketing order for limes grown in Florida. In addition, there are about 230 lime growers in Florida. Small agricultural growers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and agricultural services firms are defined as those whose annual receipts are less than $3,500,000. The majority of the handlers and growers may be classified as small entities.

A proposed rule concerning this action was published in the Federal Register (55 FR 19740, May 11, 1990), with a 30-day comment period ending June 11, 1990. No comments were received.

This action amends § 911.329 (7 CFR § 911.329) of the marketing order, authorizing handlers to use another container for shipments of fresh limes to the domestic market. The container was authorized under paragraph (a)(2)(i) of § 911.329 of the marketing order by a final rule (51 FR 27517, August 1, 1986) for use for export shipments only. This container has inside dimensions of 11⅞ by 7½ by 4¼ inches and must contain from five to six pounds of fruit.

This container was found to be suitable for domestic shipments (the 48 contiguous States and the District of Columbia of the United States and Canada) based on the conclusions of recent marketing research. The research also found that a minimum of 5.5 pounds or 2.5 kilograms of fruit should be placed in this container so that it is sufficiently filled to prevent product damage. Therefore, the container requirement is changed to specify that a minimum of 5.5 pounds or 2.5 kilograms of limes be placed in this container for both domestic and export shipments.

Thus, paragraph (a)(2)(i) of § 911.329 is amended to read: "(i) Containers with inside dimensions of 7½ by 11⅞ by 4¼ inches: *Provided,* That such containers shall contain not less than 5.5 pounds or 2.5 kilograms net weight of limes."

The container and pack requirements under this marketing order specify those containers which Florida lime handlers may use for shipping their fresh limes to market and the quantity of limes packed in those containers. These requirements ensure the use of suitable containers, so that the fruit arrives in the marketplace in good condition. This is an important aspect of marketing and is in the interests of growers, handlers, consumers, and the trade.

The committee works with the Department in administering the marketing agreement and order. The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida limes. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

Some Florida lime shipments are exempt from container requirements. Handlers may make gift shipments in individually addressed containers of up to 20 pounds of limes each. Also, limes utilized in commercial processing are not covered by the container requirements.

This action reflects the committee's and the Department's appraisal of the need to relax the container requirements applicable to shipments of fresh Florida limes. The Department's view is that the container relaxation will benefit lime handlers. The container requirements over the past several years have helped keep limes in good condition during shipment to market. Although compliance with container requirements affects costs to handlers, these costs are significantly offset when compared to the benefits resulting to growers, handlers, and consumers from the fruit being in good condition upon arrival in the marketplace.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is found that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) This action relaxes

container requirements currently in effect for Florida limes; (2) Florida lime handlers are aware of this action which was recommended by the committee at a public meeting and they will need no additional time to comply with the relaxed requirements; (3) shipment of the 1990–91 season Florida lime crop is currently underway, and handlers should be given an opportunity to take advantage of the additional container as soon as possible; and (4) the proposed rule provided a 30-day comment period, and no comments were received.

List of Subjects in 7 CFR Part 911

Florida, Limes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 911 is amended as follows:

PART 911—LIMES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 911 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 911.329 is amended by revising paragraph (a)(2)(i) to read as follows:

Note: This action will appear in the Code of Federal Regulations.

§ 911.329 Florida lime container regulation.

(a) * * *

(2) * * *

(i) Containers with inside dimensions of 7½ by 11⅞ by 4¼ inches: *Provided,* That such containers shall contain not less than 5.5 pounds or 2.5 kilograms net weight of limes.

* * * * *

Dated: July 3, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–15825 Filed 7–6–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 989

[Docket No. FV–89–088FR]

Raisins Produced From Grapes Grown in California, Monitoring Raisins Produced From Grapes Grown Outside the State of California and Received by Handlers Inside the State

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the administrative rules and regulations of the marketing order regulating raisins produced from grapes grown in California. This action will establish an identification and surveillance system for moitoring raisins produced from grapes grown outside the State of California and received by handlers inside the State. This action was unanimously recommended by the Raisin Administrative Committee (RAC), which is responsible for local administration of the marketing order. The monitoring system will provide the RAC with the necessary information to help determine the extent to which California raisin handlers and handling non-California raisins and will be in effect for the 1990–91 and 1991–92 seasons. Once this information is gathered and reviewed, further action on this matter may be warranted to help ensure that all California raisins are being handled in accordance with the provisions of the marketing order.

EFFECTIVE DATE: August 8, 1990.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 382–1754.

SUPPLEMENTARY INFORMATION: This final is issued under marketing agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act.".

This rule has been reviewed by the U.S. Department of Agriculture (USDA) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 25 handlers of raisins who are subject to regulation under the raisin marketing order and approximately 5,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts for the last three years of less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less that $3,500,000. The majority of producers and a minority of handlers of California raisins may be classified as small entities.

The raisin production area in the United States has historically been limited to the central San Joaquin Valley of California. In recent years, limited tonnage of raisins has also been produced from grapes grown in Southern California. All such raisins are currently regulated under the federal raisin marketing order, which covers raisins produced from grapes grown within the production area of the State of California.

The RAC has learned that some California raisin handlers are receiving raisins produced from grapes grown in Arizona and Mexico. Since these raisins were produced outside of California, they are not regulated under the order. The RAC is concerned that such non-California raisins could be utilized in programs established under the marketing order for California raisins.

For example, an Export Replacement Incentive Program is authorized under the order to promote the sale of California raisins in export markets. Under this program, handlers who ship free tonnage California raisins to approved foreign countries may receive prescribed amounts of reserve pool California raisins at a reduced price. Free tonnage raisins are raisins which may be shipped immediately to any market. Reserve raisins are held by handlers in a reserve pool for the account of the RAC. The RAC is concerned that handlers could ship non-California raisins rather than free tonnage California raisins under this export program. Only California raisins should be used in such programs established under the order.

Therefore, the RAC has recommended that an identification and surveillance system be established to monitor non-California raisins received by California raisin handlers. Accordingly, non-California raisins received by handlers will be identified, stored separately, reported to the RAC, and kept under surveillance until such raisins are disposed of by handlers. The monitoring system will provide the RAC with the

necessary information to help determine the extent to which California raisin handlers are handling non-California raisins.

Under the identification and surveillance system, as non-California raisins are received on handlers' premises, such raisins will be observed and marked with an RAC control card by a USDA (federal) inspector. The inspection service may request information needed to properly mark such raisins for identification (e.g., door receipts or weight certificates). Such raisins will not be subject to incoming inspection requirements established under the order but will be tagged with an RAC control card for the purpose of identifying such raisins as non-California raisins.

The handler will notify the inspection service in writing at least one business day in advance of the time such handler plans to begin receiving non-California raisins, unless a shorter time period is acceptable to the inspection service. Handlers will not be permitted to unload non-California raisins uness a federal inspector is present to observe the unloading. If an inspector is not available, the raisins may be unloaded if the handler has a written statement from the inspection service that an inspector will not be available at that time. When an inspector becomes available at a later time, such raisins will be properly marked and identified.

Handlers will also be required to store these marked non-California raisins separate and apart from California raisins. Storage of such raisins will be deemed "separate and apart" if the containers are properly marked as non-California raisins and placed so as to be readily and clearly identified.

The inspection service will also observe the processing and disposition of such non-California raisins. Handlers of non-California raisins will notify the inspection service in writing at least one business day in advance of the time such processing and/or disposition is to occur, unless a shorter period is acceptable to the inspection service.

Non-California raisins will not be required to meet outgoing inspection standards established under the order for California raisins. In addition, handlers receiving non-California raisins will pay fees assessed by the inspection service to identify and maintain surveillance of such raisins. Fees for such identification and surveillance will be charged by the inspection service (7 CFR 52.42).

Authority for the establishment of this identification and surveillance system is provided in § 989.36(l) of the order. This section, which describes the RAC's specific duties, gives the RAC authority to establish, with the approval of the Secretary, rules and regulations necessary to administer its duties as well as the provisions of the California raisin order.

New reporting provisions proposed by this action will require California raisin handlers to file two new reports with the RAC. It is estimated that providing additional information will take less than ten minutes per form per handler to complete and thus will present no significant burden to handlers. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504), the information collection provisions that are included in this rule have been approved by the Office of Management and Budget (OMB) and assigned OMB No. 05810083.

The first report will specify the receipt of non-California raisins and will be filed by handlers on a monthly basis. This report is needed to help the RAC determine the extent to which non-California raisins are being received by handlers. This report will contain the following information: (1) The varietal type(s) of non-California raisins received; (2) the net weight (pounds) of such raisins categorized as natural condition or packed for the current month as well as a cumulative quantity from the previous August 1; and (3) the State or country where such raisins were produced. With each report, handlers will be required to submit a copy of the door receipt, weight certificate, or such other document as required by the RAC that includes, but is not limited to, the name of the tenderer (equity holder) from whom such raisins were received, the varietal types of raisins, the net fruit weight, the number and type of containers in the lot, the date of delivery, and the address including State or country where such raisins were produced.

A second report will indicate the disposition of non-California raisins and will be filed by the handler with the RAC on or before the eighth day of each month. This report is needed to help the RAC monitor the disposition of non-California raisins. This report will contain similar information to that which is currently submitted on California raisin shipment reports: (1) The varietal type(s) of non-California raisins shipped; (2) the net weight (pounds) of such raisins shipped; (3) the destination (domestic, export, and other disposition such as distilleries, livestock feeders, or concentrate) of such shipments; and (4) the types of raisin packages (carton, bag, or bulk) shipped.

Authority for requesting these additional reports is contained in § 989.73(d) of the order. This section provides that, upon request of the RAC, with the approval of the Secretary, each handler shall furnish to the RAC such other information as may be necessary to enable the RAC to exercise its powers and perform its duties.

In addition, this action will be temporary in nature in that it will only be in effect for the 1990–91 and 1991–92 seasons. This time period should be sufficient for the RAC to implement the monitoring system, and thus determine the extent to which non-California raisins are being handled by California handlers. Once this information is gathered and reviewed, further action on this matter may be warranted to help ensure that all California raisins are being handled in accordance with the provisions of the marketing order.

A proposed rule was published in the April 11, 1990, issue of the **Federal Register** (55 FR 13540). It afforded interested persons the opportunity to submit written comments until May 11, 1990. Two comments were received. One comment was received from Ms. Cora O. Lewis, Senior Counsel and Assistant Secretary for Del Monte Corporation (Del Monte), in opposition to the proposal. One comment was received from Mr. Barry F. Kriebel, President of Sun-Maid Growers of California (Sun-Maid), in support of the proposal. Sun-Maid also made several recommendations regarding the proposed administrative rules and regulations associated with this rule.

Del Monte commented that this action is not necessary because an identification and surveillance system for monitoring non-California raisins is already in effect and is being operated by the USDA. Del Monte stated that the USDA's inspection service currently identifies and tags non-California raisins received by handlers and has access to information needed to properly identify and mark such raisins; that the identification tag, which has a recorded pallet control card number, must be removed by USDA personnel prior to processing at each handler's premise; and that handlers now handling non-California raisins are being charged $75.00 per hour for this inspection service. Del Monte asserted that it would be inappropriate to replace this system with one controlled by the RAC.

Del Monte's contention that an identification and surveillance system is already in operation by the USDA is inaccurate. Currently, handlers may request the USDA's inspection service to identify and tag non-California raisins received at their handling facility.

However, the identification and surveillance system as proposed by the RAC will apply to all California raisin handlers, not just those who request such action by the inspection service. In addition, Del Monte's statement that handlers of non-California raisins are being charged $75.00 per hour for this inspection service is also inaccurate. Such handlers are currently being charged $31.00 per hour for this service (7 CFR 52.42).

Further, under the RAC's monitoring system, California raisin handlers will also be required to submit additional reports to the RAC on the receipt and disposition of non-California raisins. The RAC, which represents growers and handlers in the California raisin industry, unanimously recommended this monitoring system so that it may gather the necessary information to help determine the extent to which California handlers are handling non-California raisins.

Del Monte also commented that perhaps a more appropriate solution to the potential problem of non-California raisins entering the export program would be for the USDA to certify that all raisins sold through the export program are California raisins. Del Monte stated that since the USDA actually performs the identification and monitoring, this additional step could be easily implemented and would not entail the additional paperwork and time that would be required to prepare two monthly reports on the receipt and disposition of non-California raisins.

In accordance with 7 CFR 52.3, an official certificate means to certify with respect to inspection, class, grade, quality, size, quantity, or condition of products. The inspection service does not certify the location of a commodity's production. However, beginning with the 1990–91 season, handlers of California raisins will be required to certify on their disposition report for California raisins that all such raisins were produced in California. This report contains information regarding the destination of California raisins, including export. In addition, the terms and conditions of the export program will be modified, beginning with the 1990–91 season, to specify that only California raisins may be utilized in the program.

Del Monte also stated that the monitoring system would require names and addresses of producers of non-California raisins to be submitted to the RAC. Del Monte asserted that this is proprietary information which is not germane to the duties of the RAC and that such information is not necessary to ensure that California raisins are being handled in accordance with the provisions of the order.

The RAC believes that, in order to verify the accuracy of handler reports regarding non-California raisins, information regarding the identity of the producer of such raisins is germane and thus needed. In addition, § 989.75 of the marketing order contains provisions concerning the confidentiality of information provided or submitted to the RAC.

Del Monte also commented that the new reporting requirements of the monitoring system will require additional paperwork and expense to handlers. The economic benefits of this action, however, are expected to outweigh any associated costs. In addition, as previously stated, it is estimated that the additional information will take less than ten minutes per form to complete and thus will present no significant burden to handlers. Accordingly, the comment is denied.

Sun-Maid, who commented in support of this action, stated that the collection and dissemination of information regarding non-California raisins, as proposed by the RAC, will be valuable for the proper administration of the raisin marketing order. Sun-Maid stated that several programs, such as the export program, could be adversely affected by the blending or distributing of non-California raisins.

Sun-Maid also requested that the proposed administrative rules and regulations be modified to clarify several points. First, Sun-Maid recommended that the term "grown outside of California" be defined to mean grown in any of the other 49 States as well as in any foreign country. However, no modification to the rules and regulations regarding the term "grown outside of California" is needed. Raisins produced outside of the production area (State of California) would include raisins grown in any of the other 49 States or in any foreign country.

Sun-Maid also recommended that the rules and regulations be modified to state that while this action is temporary in nature for the 1990–91 and 1991–92 seasons, the RAC may extend the monitoring system for subsequent years. However, it is the intent of this rule that at the end of this two-year period, the information collected be thoroughly reviewed by the USDA in cooperation with the RAC. Upon completion of this review, further action may then be warranted to help ensure that all California raisins are being handled in accordance with the provisions of the marketing order. Therefore, no modification to the rules and regulations is needed regarding the time frame of this action.

Finally, Sun-Maid recommended that the term "receipt" of raisins or the "receiving" of raisins be defined to be broader than the term "acquired" as defined in § 989.17 of the order. Sun-Maid suggested that for these new reporting requirements, the term "receipt" should mean gaining possession for any reason, and should include possession in any condition, whether natural condition, processed condition, or packed. However, "receipt" is a term which is commonly used in part 989 and is applied in appropriate instances to reflect acceptance of raisins by a handler at such handler's packing or processing plant, or at any other established receiving station operated by such handler in any condition, including natural, processed, or packed. The use of the term "receipt" in the proposed rule was intended to adopt that meaning. In addition, it would be confusing to the industry to have two different definitions for the term receipt. Handlers of non-California raisins will be required to indicate the condition of such raisins on the receipt report for non-California raisins.

Accordingly, no modification to the proposed rule is necessary. Therefore, the final rule is identical to the proposed rule.

After consideration of all relevant matter presented, including the RAC's recommendation and other available information, it is found that this final rule tends to effectuate the declared policy of the Act.

Based on the above information, the Administrator of the AMS has determined that issuance of this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674.

Subpart—Administrative Rules and Regulations

2. A new § 989.157 is added to read as follows:

§ 989.157 Raisins produced from grapes grown outside of California.

(a) Any raisins produced from grapes grown outside the State of California that are received by a handler shall be observed and marked for identification by an inspector. As provided in § 989.173(b)(7), the inspection service may request information needed to properly mark such raisins for identification; it shall be the handler's responsibility to arrange for such identification and furnish required documentation promptly.

(b) In the absence of an inspector to observe and mark such raisins for identification, the handler shall not permit the unloading to occur unless the handler has a written statement from the inspection service that an inspector cannot be furnished within a reasonable time: *Provided*, That raisins so unloaded shall be observed and marked properly upon an inspector being available.

(c) The handler shall notify the inspection service in writing at least one business day in advance of the time such handler plans to begin receiving raisins produced from grapes grown outside the State of California, unless a shorter period is acceptable to the inspection service.

(d) Raisins produced from grapes grown outside of the State of California and received by a handler shall be marked for identification by the inspector affixing to one container on each pallet or to each bin in each lot a prenumbered RAC control card (to be furnished by the Committee) which shall remain affixed until the raisins are processed and disposed of or disposed of as natural condition raisins. The cards shall be removed only by an inspector of the inspection service or authorized Committee personnel.

(e) Each handler shall store raisins produced from grapes grown outside the State of California separate and apart from all other raisins held by such handler to the satisfaction of the Committee. Storage of such raisins shall be deemed "separate and apart" if the containers are marked as raisins produced from grapes grown outside the State of California and placed so as to be readily and clearly identified.

(f) Any raisins received by a handler produced from grapes grown outside the State of California shall be processed and/or disposed of under the surveillance of the inspection service. The handler shall notify the inspection service in writing at least one business day in advance of the time such processing and/or disposition will occur, unless a shorter period is acceptable to the inspection service.

(g) The handler receiving raisins produced from grapes grown outside of California shall pay fees assessed by the inspection service to identify and maintain surveillance of such raisins.

3. Section 989.173 is amended by adding new paragraph (b)(7), by redesignating paragraph (c)(3) as paragraph (c)(4), and by adding new paragraph (c)(3) to read as follows:

§ 989.173 Reports.

* * * * *

(b)(7) *Receipt of raisins produced from grapes grown outside the State of California.* Each handler who receives raisins produced from grapes grown outside the State of California shall submit to the Committee, on an appropriate form provided by the Committee so that it is received by the Committee not later than the eighth day of each month, a report of the receipt of such raisins. This report shall include: The varietal type of raisins received; the net weight (pounds) of raisins categorized as natural condition or packed for the current month as well as a cumulative quantity from August 1; and the State or country where the raisins were produced. With each report, the handler shall submit a copy of the door receipt, weight certificate, or such other document as required by the Committee that includes, but is not limited to, the name of the tenderer (equity holder) from whom such raisins were received, the varietal type(s) of raisins, the net fruit weight, the number and type of containers in the lot, the date of delivery, and the address including State or country where such raisins were produced.

* * * * *

(c) * * *

(3) *Disposition by handlers of raisins produced from grapes grown outside the State of California.* Each handler who receives raisins produced from grapes grown outside the State of California shall submit to the Committee, on or before the eighth day of each month, a report, on the appropriate form provided by the Committee, of all shipments of such raisins made during the preceding month. This report shall include:

(i) The varietal type(s) of raisins shipped;

(ii) The net weight (pounds) of raisins shipped;

(iii) The destination (domestic, export, and other disposition such as distilleries, livestock feeders, or concentrate) of such shipments; and

(iv) The types of raisin packages (carton, bag, or bulk) shipped.

* * * * *

Dated: July 3, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-15826 Filed 7-6-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 168

[Docket No. 86P-0101/CP]

Lactose; Amendment of the Standard of Identity; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for compliance with the final rule that amended the standard of identity for lactose to reduce the required minimum lactose content, change the pH range, make editorial changes, and update the referenced method for the determination of loss on drying.

EFFECTIVE DATE: April 10, 1990, for all products initially introduced or initially delivered for introduction into interstate commerce on or after this date.

FOR FURTHER INFORMATION CONTACT: Arthur R. Johnson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington DC 20204, 202-485-0112.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 8, 1990 (55 FR 8458), FDA issued a final rule amending the standard of identity for lactose (21 CFR 168.122) to: (1) Reduce the required minimum lactose content from not less than 99 percent to not less than 98 percent, mass over mass, calculated on a dry basis; (2) change the pH range from not less than 4.5 nor more than 7.0 to not less than 4.5 nor more than 7.5; (3) make editorial changes to cite newly adopted methods of analysis of the Association of Official Analytical Chemists; and (4) update the referenced method for the determination of loss on drying at 120 °C. The final rule was issued in consideration of a petition, dated February 25, 1986, filed by the

American Dairy Products Institute. The final rule provided that any person who would be adversely affected by the regulation could at any time, on or before April 9, 1990, file written objections and request a hearing on the specific provisions to which there were objections. No objections or requests for a hearing were filed in response to the final regulation.

List of Subjects in 21 CFR Part 168

Food grades and standards, Sugar

PART 168—SWEETENERS AND TABLE SIRUPS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 401, 403, 701, 706 (21 U.S.C. 321, 341, 348, 371, 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Food Safety and Applied Nutrition (21 CFR 5.62), notice is given that no objections were recieved and that the final regulation amending the standard of identity for lactose (21 CFR 168.122), as promulgated in the **Federal Register** of March 8, 1990 (55 FR 8458), became effective April 10, 1990.

Dated: June 25, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-15782 Filed 7-6-90; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 178

[Docket No. 88F-0310]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of glyceryl esters of oxidatively refined montan wax acids as lubricants in the production of food-contact articles prepared from vinyl chloride polymers. This action is in response to a petition filed by Hoechst-Celanese, Inc. FDA is also making editorial changes in 21 CFR 178.3770.

DATES: Effective July 9, 1990; written objections and requests for a hearing by August 8, 1990.

ADDRESSES: Written objections to the Docket Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 27, 1988 (53 FR 37646), FDA announced that a food additive petition (FAP 8B4108) had been filed by Hoechst-Celanese, Inc., 1150 17th St. NW., Washington, DC 20036, proposing that § 178.3770 *Polyhydric alcohol diesters of oxidatively refined (Gersthoffen process) montan wax acids* (21 CFR 178.3770) be amended to provide for the safe use of glyceryl esters of oxidatively refined (Gersthoffen process) montan wax acids as lubricants in the production of food-contact articles prepared from polyvinyl chloride and/or vinyl chloride copolymers.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations in 21 CFR 178.3770 should be amended as set forth below.

The agency finds that the word "Gersthoffen" used in § 178.3770 is correctly spelled "Gersthofen". Therefore, the agency is making editorial corrections in § 178.3770 in the section heading, introductory paragraph, introductory text of paragraphs (a), (b), and (c), and paragraph (c)(1) to use this correct spelling. Further, considering the fact that the proposed amendment will add "glyceryl esters" to the list of substances in the section, FDA is making editorial changes in the section heading and the introductory paragraph of § 178.3770 to make clear that the regulation authorizes the use of all esters described therein.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before August 8, 1990, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 178.3770 is amended by revising the section heading; by removing "diesters" and replacing it with "esters" and by removing "Gersthoffen" and replacing it with "Gersthofen" in the introductory paragraph, the introductory text of paragraphs (a), (b), and (c), and

paragraph (c)(1); and by adding new paragraph (d), to read as follows:

§ 178.3770 Polyhydric alcohol esters of oxidatively refined (Gersthofen process) montan wax acids

* * * * *

(d) The polyhydric alcohol esters identified in this paragraph may be used as lubricants in the fabrication of vinyl chloride plastic food contact articles prepared from vinyl chloride polymers. Such esters meet the following specifications and are produced by partial esterification of oxidatively refined (Gersthofen process) montan wax acids with glycerol followed by neutralization:

(1) Dropping point 79 to 85 °C, as determined by the American Society for Testing and Materials (ASTM), Method D-566-76 (Reapproved 1982), "Standard Test Method for Dropping Point of Lubricating Grease," which is incorporated by reference in accordance with 5 U.S.C. 552(a). The availability of this incorporation by reference is given in paragraph (a)(1) of this section.

(2) Acid value 20 to 30, as determined by ASTM Method D-1386-78 "Standard Test Method for Saponification Number (Empirical) of Synthetic and Natural Waxes" (Revised 1978) (which is incorporated by reference in accordance with 5 U.S.C. 552(a); the availability of this incorporation by reference is given in paragraph (a)(2) of this section), using as a solvent xylene-ethyl alcohol in a 2:1 ratio instead of toluene-ethyl alcohol in a 2:1 ratio.

(3) Saponification value 130-160, as determined by ASTM Method D-1387-78 "Standard Test Method for Acid Number (Empirical) of Synthetic and Natural Waxes" (Revised 1978), (which is incorporated by reference in accordance with 5 U.S.C. 552(a); the availability of this incorporation by reference is given in paragraph (a)(3) of this section), using xylene-ethyl alcohol in a 2:1 ratio instead of ethyl alcohol in the preparation of potassium hydroxide solution.

(4) Ultraviolet absorbance limits specified in paragraph (a)(4) of this section, as determined by the analytical method described therein.

Dated: June 25, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-15781 Filed 7-6-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8304]

RIN 1545-AO00

Returns Relating to Cash in Excess of $10,000 Received in a Trade or Business

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that require a person who currently must report the receipt of cash in excess of $10,000 with respect to a transaction to also make a report each time subsequent cash payments received within a one-year period with respect to the same transaction or a related transaction aggregate an amount in excess of $10,000. These regulations enable law enforcement authorities to ascertain the magnitude of large transfers of cash with respect to the same transaction. The regulations affect trades or businesses that are currently required to report large receipts of cash.

EFFECTIVE DATE: These regulations are effective for amounts received after December 31, 1989.

FOR FURTHER INFORMATION CONTACT: Philip W. Scott, 202-566-3826 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1545-0892. The estimated annual burden per respondent varies from 11 minutes to 26 minutes, depending upon individual circumstances, with an average of 18 minutes.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances.

For further information concerning this collection of information, and where to submit comments on this collection of information, the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section of this issue of the Federal Register.

Background

This document contains temporary regulations amending the Income Tax Regulations under section 6050I of the Internal Revenue Code of 1986 relating to returns required in the case of cash in excess of $10,000 received in a trade or business.

Explanation of Provisions

The temporary regulations require persons engaged in a trade or business who currently must report the receipt of cash in excess of $10,000 with respect to a transaction to also make a report each time that subsequent payments received within a one-year period with respect to the same transaction or a related transaction aggregate an amount in excess of $10,000. Under existing regulations, a report must be made only if a single subsequent payment exceeds $10,000. The temporary regulations will enable law enforcement authorities to ascertain the magnitude of large transfers of cash with respect to the same transaction.

Special Analyses

These rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Act Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for the regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Need for Temporary Regulations

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with prior notice as required by subsection (b) of section 553 of title 5 of the United States Code.

Drafting Information

The principal author of these temporary regulations is Philip W. Scott

of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the Service and Treasury Department participated in their development.

List of Subjects

26 CFR 1.6001–1 through 1.6109–2

Administration and procedure, Filing requirements, Income taxes.

26 CFR Part 602

Reporting and recordkeeping requirements.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1986

Accordingly, title 26, chapter 1, parts 1 and 602 of the Code of Federal Regulations is amended as follows:

Paragraph 1. The authority for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * * Section 1.6050I–1T also issued under 26 U.S.C. 6050I.

Par. 2. Section 1.6050I–1T is revised to read as follows:

§ 1.6050I–1T Returns relating to cash in excess of $10,000 received in a trade or business after December 31, 1989 (temporary).

(a) [Reserved]

(b) *Multiple payments.* The receipt of cash deposits or cash installment payments (or other similar payments or prepayments) relating to a single transaction (or two or more related transactions) are reported under this section in different manners depending upon the dollar amounts of the initial and subsequent payments. Reporting of multiple payments is effected as follows:

(1) *Initial payment in excess of $10,000.* If the initial payment exceeds $10,000, the recipient must report the initial payment within 15 days of its receipt.

(2) *Initial payment of $10,000 or less.* If the initial payment does not exceed $10,000, the recipient must aggregate the initial payment and subsequent payments made within one year of the initial payment until such aggregate amount exceeds $10,000, and report with respect to the aggregate amount within 15 days after receipt of that payment which causes the aggregate amount to exceed $10,000.

(3) *Payments received subsequent to payments previously reportable.* In addition to any report required under paragraph (b)(1) or (b)(2) of this section, a report must be made each time that payments (not previously required to be reported under paragraph (b)(1) or (b)(2) of this secton or this paragraph (b)(3)) made within a one-year period with respect to a single transaction (or two or more related transactions), individually or in the aggregate, exceed $10,000. Such report must be made within 15 days after receipt of that payment which causes the aggregate amount received in the one-year period to exceed $10,000. (If payments are made within a 15-day period which, under paragraph (b)(1) or (b)(2) or this paragraph (b)(3), would require more than one report to be made, the recipient may elect to make a single report with respect to such payments. Such single report must be made no later than the date by which the first of the separate reports must be made.)

(4) *Example.* On January 10, 1990, M receives an initial cash payment of $11,000 with respect to a transaction. M receives subsequent cash payments with respect to the same transaction of $4,000 on February 15, 1990, $6,000 on March 20, 1990, and $12,000 on May 15, 1990. M must make a report with respect to the payment received on January 10, 1990, by January 25, 1990. M must also make a report with respect to the payments totalling $22,000 received from February 15, 1990, through May 15, 1990. This report must be made by May 30, 1990, that is, within 15 days of the date that the subsequent payments, all of which were received within a one-year period, exceeded $10,000.

(c) [Reserved]

(d) [Reserved]

(e) *Time, manner, and form of reporting*—(1) *Time of reporting.* (i) Except as otherwise provided in paragraph (e)(1) (ii) of the section, the reports required by this section must be filed with the Internal Revenue Service by the 15th day after the date the cash is received. In the case of multiple payments relating to a single transaction (or two or more related transactions), see paragraph (b) of this section.

(ii) If a report is required by paragraph (b)(3) of this section with respect to payments received after December 31, 1989, and such report would not have been required pursuant to § 1.6050I–1(b), then such report must be filed no later than the later of

(A) 15 days after the receipt of the payment which causes a report to be required by paragraph (b)(3) of this section or

(B) 15 days after July 9, 1990.

(2) [Reserved]

(3) [Reserved]

(f) [Reserved]

(g) [Reserved]

(h) *Effective date.* This section is effective for amounts received after December 31, 1989. The rules contained in § 1.6050I–1 remain effective with respect to amounts received after December 31, 1989, to the extent they are not inconsistent with the rules contained in this section.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [AMENDED]

Par. 4. In this table in § 602.101(c), the control number for § 1.6050I–1T continues to read: "1.6050–1T . . . 1545–0892."

Dated: May 28, 1990.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Approved:

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 90–15085 Filed 7–6–90; 8:45 a.m.]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Abandoned Mine Land Reclamation Program; Grant Application from the State of Montana Addressing All Coal-Related Impacts from Pre-August 3, 1977, Mining Practices

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) announced in an April 11, 1990, Federal Register notice (55 FR 13552) that the State of Montana had certified that it had satisfied the requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA, U.S.C. 1231 *et seq.*) with regard to abandoned coal mine reclamation. Comments were requested on the certification from the public. After reviewing the matter, the Director of OSM concurs with the State's finding that all coal-related problems have been addressed. The State of Montana is now authorized pursuant to section 409 of SMCRA to utilize abandoned mine land reclamation (AMLR) funds for noncoal reclamation purposes.

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 E. B

Street, room 2128, Casper, Wyoming 82601–1918. Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION: Title IV of SMCRA established an AMLR program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. The program is funded by a reclamation fee on the production of coal. Lands and water resources eligible for reclamation are those that were mined or affected by mining and abandoned or left in a inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or other Federal law.

Each State having within its borders coal-mined lands eligible for reclamation under title IV of SMCRA may submit to the Secretary of the Interior a reclamation plan demonstrating its capability for administering an AMLR program.

Upon approval of the State Reclamation Plan by the Secretary, the State may submit to OSM, on an annual basis, an application for funds to be expended in that State on specific reclamation projects that are necessary to implement the approved State Reclamation Plan. Such annual requests are reviewed and approved in accordance with the requirements of 30 CFR part 886.

AMLR funds are to be utilized to address the problems caused by past mining in the following order. First, reclamation efforts are to be directed at correcting or mitigating the problems caused by past coal mining. Certain noncoal mining-related problems may also be addressed at the same time, however, if they involve direct threats to the public health, safety, or welfare. Second, following the completion of all coal-related impacts, a State program may then direct its efforts to alleviating the problems caused by all other types of mining. Finally, when all coal- and noncoal-related impacts have been addressed, and if certain other conditions set forth in section 402(g)(2) of SMCRA are satisfied, AMLR funds may be used for construction of specific public facilities in communities impacted by coal-mining development.

Under section 409 of SMCRA, funding for noncoal reclamation projects not directly related to the protection of the public health, safety, or welfare may be approved only after a State has addressed all reclamation with respect to abandoned coal mined lands. Monies available for all noncoal reclamation projects, regardless of their priority, may be derived only from those funds allocated to the States under section 402(g) of SMCRA. On the other hand, Secretarial share funds, by statute, may be utilized only to address coal-related impacts from abandoned mine lands.

The Montana reclamation plan, as submitted on October 24, 1980, was approved effective November 24, 1980, (45 FR 70445). Since this approval, the State has received OSM approval of 76 coal reclamation projects at a total cost of $34.10 million. In addition, OSM has approved 17 noncoal reclamation projects at a cost of $8.28 million.

The Governor of the State of Montana notified OSM by letter of December 27, 1989 (Administrative Record No. MTAML–1) that the State had addressed the last known area involving abandoned coal mines. The State also indicated that it will commit available funds to finance any unforeseen coal problems that might arise.

On April 11, 1990, OSM announced the State certification in **Federal Register** notice (55 FR 13552) and requested public comment. No comments were received and no new coal-related AMLR problems were identified.

Based on the State's certification and the absence of any known unreclaimed coal-related impacts, it is the opinion of OSM that the requirements in section 409 of SMCRA have been satisfied.

Accordingly, the State is now able to submit in its annual grant requests noncoal projects that do not directly relate to the public health, safety, or welfare. SMCRA requires that if coal-related problems are discovered after certification is approved, they must be reclaimed ahead of eligible noncoal projects.

This determination, however, means that after the last known coal-related project is funded, Secretarial share funds tentatively set aside for Montana under OSM's allocation policy for reclamation of abandoned coal mine lands will no longer be available to the State. Secretarial share funds will still be authorized for coal-related emergency projects.

List of Subjects in 30 CFR Part 926

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 15, 1990.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 90–15797 Filed 7–6–90; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AD84

Veterans' Education; The Veterans' Benefits and Programs Improvement Act of 1988 and Noncontributory Educational Assistance Programs

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Veterans' Benefits and Programs Improvement Act of 1988 contains several provisions which affect Dependents' Educational Assistance and the Vietnam Era GI Bill. These include permitting high school training and refresher, remedial and deficiency training for all dependents, an increase in the monthly tutorial assistance and the total tutorial assistance under both programs, and a liberalization of the rules concerning adjustment of monthly benefits following a course withdrawal. These amended regulations state how the Department of Veterans Affairs (VA) will administer these provisions of law.

EFFECTIVE DATE: The effective dates of the amended regulations coincide with the effective dates of the laws upon which they are based. Consequently, the amendments to §§ 21.4200, 21.4201, and 21.4236 are retroactively effective on November 18, 1988. The amendments to §§ 21.4136, and 21.4137(h) are retroactively effective on June 1, 1989. The amendments to all other regulations and the removal of § 21.4252(f) are retroactively effective on August 15, 1989.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service, Veterans' Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–2092.

SUPPLEMENTARY INFORMATION: On pages 47780 through 47785 of the **Federal Register** of November 17, 1989, there was published notice of intent to amend 38 CFR part 21 in order to implement several provisions of Public Law 100–689 which affect the Dependents' Educational Assistance Program and the Vietnam Era GI Bill. Interested people were given 31 days to submit comments, suggestions or objections. VA received no comments, suggestions or objections.

Accordingly, VA is making the regulations final.

VA finds that good cause exists for making the amendments to §§ 21.4200, 21.4201, and 21.4236, like the sections of Public Law 100-689 they implement, retroactively effective on November 18, 1988. VA finds that good cause exists for making §§ 21.4136 and 21.4137(h), like the section of law they implement, retroactively effective on June 1, 1989. VA finds that good cause exists for making the remainder of the regulations and the removal of § 21.4252(f), like the provisions of law they implement, retroactively effective on August 15, 1989. To achieve the maximum benefit of the legislation for the affected individuals, it is necessary to implement these provisions of law as soon as possible. A delayed effective date would be contrary to statutory design; would complicate administration of these provisions of law; and might result in denial of a benefit to a veteran or eligible person who is entitled by law to it, or in the granting of a benefit to a veteran or eligible person who is not entitled to it.

VA has determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs has certified that these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulations affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.111 and 64.117

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 6, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 21—[AMENDED]

38 CFR part 21, Vocational Rehabilitation and Education, is amended as follows:

1. In § 21.1045, the introductory text, paragraphs (a)(2) introductory text, (a)(3) introductory text, (a)(4) and its authority citation, (b)(2) through (b)(6), (c)(3), (g)(2)(i), and (k) are revised to read as follows:

§ 21.1045 Entitlement charges.

VA will make charges against entitlement only when required by this section. Charges for institutional training will be based upon the principle that a veteran or eligible person who trains full time for 1 day should be charged 1 day of entitlement. The provisions of this section apply to veterans training under chapter 34 of title 38, United States Code, as well as to veterans for that portion of a program under chapter 31 of title 38, United States Code, during which the veteran receives payment at the chapter 34 rate pursuant to a valid election under § 21.264 of this part to receive educational assistance allowance equivalent to that paid to veterans training under chapter 34.

(Authority: 38 U.S.C. 1691)

(a) * * *

(2) A veteran who—

* * * * *

(3) A veteran who—

* * * * *

(4) A veteran, not on active duty, who is pursuing refresher, remedial or deficiency courses.

(Authority: 38 U.S.C. 1691)

(b) * * *

(2) A veteran who is pursuing a program of apprenticeship or other on-job training under chapter 34;

(3) A veteran or serviceperson under chapter 34 who is pursuing a correspondence course; or

(4) A veteran, not on active duty, who—

(i) Is pursuing a course leading to a secondary school diploma or an equivalency certificate as described in § 21.4235 of this part;

(ii) Elects to receive educational assistance allowance at the rate described in § 21.4136(a), and

(iii) Either was not pursuing a course leading to a secondary school diploma or equivalency certificate on October 1, 1980, or has not remained continuously enrolled in such a course since October 1, 1980; or

(5) A serviceperson under chapter 34 who is pursuing a refresher, remedial or deficiency course; or

(6) A veteran or serviceperson under chapter 34 for the pursuit of any course not described in paragraph (a) of this section.

(Authority: 38 U.S.C. 1661, 1677(b), 1691)

(c) * * *

(3) A veteran may concurrently enroll in a refresher, remedial or deficiency course or courses for which paragraph (a)(4) of this section requires no charge against entitlement and in a course or courses for which paragraph (b) of this section requires a charge against entitlement. When this occurs, VA will charge entitlement for the concurrent enrollment based only on pursuit of the course or courses described in paragraph (b) of this section, measured in accordance with §§ 21.4270 through 21.4275, as appropriate.

(Authority: 38 U.S.C. 1661, 1677(b))

* * * * *

(g) * * *

(2) * * *

(i) $220 paid after December 31, 1972, and before September 1, 1974, to a veteran as an educational assistance allowance.

* * * * *

(k) *Education loan after otherwise applicable delimiting date—chapter 34.* VA will make a charge against the entitlement of a veteran who receives an education loan pursuant to § 21.4501(c) at the rate of 1 day for each day of entitlement that would have been used had the veteran been in receipt of educational assistance allowance for the period for which the loan was granted.

(Authority: 38 U.S.C. 1662; Pub. L. 95-202, Pub. L. 100-689)

2. Section 21.3045 is revised to read as follows:

§ 21.3045 Entitlement charges.

VA will make charges against an eligible person's entitlement only when required by this section. Charges for institutional training will be based upon the principle that an eligible person who trains full time for 1 day should be charged 1 day of entitlement.

(a) *No entitlement charge for eligible persons receiving tutorial assistance.* VA will make no charge against the entitlement of an eligible person for tutorial assistance received in accordance with § 21.4236.

(Authority: 38 U.S.C. 1692, 1733(b))

(b) *Entitlement charges for elementary and secondary education.*

(1) When an eligible spouse or surviving spouse is pursuing a course leading to a secondary school diploma or an equivalency certificate as described in § 21.4235 of this part, there are two sets of circumstances which will always result in VA's making no charge against his or her entitlement. These are as follows:

(i) Either the eligible spouse or surviving spouse completed training during the period beginning on October 1, 1980, and ending on August 14, 1989, and remained continuously enrolled from October 1, 1980, through the time the spouse or surviving spouse either completed training or August 14, 1989, whichever is earlier; or

(ii) The eligible spouse or surviving spouse completed training before August 15, 1989, and received educational assistance based upon the tuition and fees charged for the course.

(2) When an eligible spouse or surviving spouse is pursuing a course leading to a secondary school diploma or an equivalency certificate as described in § 21.4235, the following circumstances will always result in VA's making a charge against his or her entitlement.

(i) The spouse or surviving spouse elects to receive dependents' educational assistance at the rate described in § 21.4137(a), and

(ii) Either was not pursuing a course leading to a secondary school diploma or equivalency certificate on October 1, 1980, or has not remained continuously enrolled in such a course since October 1, 1980.

(3) When an eligible person pursues refresher, remedial or deficiency training before August 15, 1989, the following provisions govern the charge against the entitlement.

(i) VA will not make a charge against the entitlement of an eligible spouse or surviving spouse.

(ii) VA will make a charge against the entitlement of an eligible child.

(4) The following provisions apply to an eligible person for training received after August 14, 1989. When he or she is pursuing a course leading to a secondary school diploma or equivalency certificate or refresher, remedial or deficiency training.

(i) VA will make no charge against the entitlement of an eligible person for the first five months of full time pursuit (or its equivalent in part-time pursuit).

(ii) VA will make a charge against the entitlement of an eligible person for pursuit in excess of the pursuit described in paragraph (b)(4)(i) of this section.

(Authority: 38 U.S.C. 1733(a); Pub. L. 100-689)

(c) *Other courses for which entitlement will be charged.* VA will make a charge against the period of entitlement of—

(1) An eligible person for pursuit of a program of apprenticeship or other on-job training;

(2) A spouse or surviving spouse for pursuit of a correspondence course; or

(3) An eligible person for the pursuit of any course not described in paragraph (a) or (b) of this section.

(Authority: 38 U.S.C. 1734)

(d) *Determining entitlement charge.* The provisions of this paragraph apply to all courses except those courses for which VA is not making a charge against the eligible person's entitlement, nor do they apply to apprenticeship or other on-job training, correspondence courses, or to courses offered solely through independent study.

(1) After making any adjustments required by paragraph (d)(3) of this section VA will make a charge against entitlement—

(i) On the basis of total elapsed time (one day for each day of pursuit) if the eligible person is pursuing the program of education on a full-time basis,

(ii) On the basis of a proportionate rate of elapsed time, if the eligible person is pursuing a program of education on a three-quarter, one-half or less than one-half time basis. For the purpose of this computation, training time which is less that one-half, but more than one-quarter time, will be treated as though it were one-quarter time training.

(2) VA will compute elapsed time from the commencing date of enrollment to date of discontinuance. If the eligible person changes his or her training time after the commencing date of enrollment, VA will—

(i) Divide the enrollment period into separate periods of time during which the eligible person's training time remains constant; and

(ii) Compute the elapsed time separately for each time period.

(3) An eligible person may concurrently enroll in refresher, remedial or deficiency training for which paragraph (b)(3) or (b)(4)(i) of this section requires no charge against entitlement and in a course or courses for which paragraph (b)(2) or (b)(4)(ii) or (c) of this section requires a charge against entitlement. When this occurs, VA will charge entitlement for the concurrent enrollment based only on pursuit of the courses described in paragraph (b)(2) or (b)(4)(ii) or (c) of this section, measured in accordance with §§ 21.4270 through 21.4275 of this part, as appropriate.

(Authority: 38 U.S.C. 1733(a); Pub. L. 100-689)

(e) *Entitlement charge for pursuit solely by independent study.* VA will make charges against the entitlement of an eligible person in the manner described in paragraph (d) of this section, if he or she is pursuing a program of education solely by independent study. However, the computation will always be made as though the eligible person's training were one-quarter time.

(Authority: 38 U.S.C. 1682(b), 1732(a))

(f) *Entitlement charge for apprenticeship or other on-job training.* The charge against entitlement for pursuit of apprenticeship or other on-job training program shall be 1 month for each month of training assistance allowance paid to the eligible person for the program. If there is a reduction in the eligible person's monthly training assistance allowance due to his or her failure to complete 120 hours of training during the month, VA will combine the portions of those months for which a reduction was made. VA will make no charge against entitlement for the period of combined reductions.

(Authority: 38 U.S.C. 1734, 1787)

(g) *Entitlement charge for correspondence courses.* The charge against entitlement for pursuit of a course exclusively by correspondence will be 1 month for each—

(1) $220 paid after December 31, 1972, and before September 1, 1974, to a spouse or surviving spouse as an educational assistance allowance,

(2) $260 paid after August 31, 1974, and before January 1, 1975,

(3) $270 paid after December 31, 1974, and before October 1, 1976,

(4) $292 paid after September 30, 1976, and before October 1, 1977,

(5) $311 paid after September 30, 1977, and before October 1, 1980,

(6) $327 paid after September 30, 1980, and before January 1, 1981,

(7) $342 paid after December 31, 1980, and before October 1, 1984, and

(8) $376 paid after September 30, 1984.

(Authority: 38 U.S.C. 1786(a))

(h) *Overpayment cases.* VA will make a charge against entitlement for an

overpayment only if the overpayment is discharged in bankruptcy, is waived and is not recovered, or is compromised.

(1) If the overpayment is discharged in bankruptcy or is waived and is not recovered, the charge against entitlement will be at the appropriate rate for the elapsed period covered by the overpayment (exclusive of interest, administrative costs of collection, court costs and marshal fees).

(2) If the overpayment is compromised and the compromise offer is less than the amount of interest, administrative costs of collection, court costs and marshal fees, the charge against entitlement will be at the appropriate rate for the elapsed period covered by the overpayment (exclusive of interest, administrative costs of collection, court costs and marshal fees).

(3) If the overpayment is compromised and the compromise offer is equal to or greater than the amount of interest, administrative costs of collection, court costs and marshal fees, the charge against entitlement will be determined by—

(i) Subtracting from the sum paid in the compromise offer the amount attributable to interest, administrative costs of collection, court costs and marshal fees,

(ii) Subtracting the remaining amount of the overpayment balance determined in paragraph (h)(3)(i) of this section from the amount of the original overpayment (exclusive of interest, administrative costs of collection, court costs and marshal fees),

(iii) Dividing the result obtained in paragraph (h)(3)(ii) of this section by the amount of the original debt (exclusive of interest, administrative costs of collection, court costs and marshal fees), and

(iv) Multiplying the percentage obtained in paragraph (h)(3)(iii) of this section by the amount of the entitlement otherwise chargeable for the period of the original overpayment.

(Authority: 38 U.S.C. 1671, 1732)

(i) *Interruption to conserve entitlement.* An eligible person may not interrupt a certified period of enrollment for the purpose of conserving entitlement. An educational institution may not certify a period of enrollment for a fractional part of the normal term, quarter or semester, if the eligible person is enrolled for the term, quarter or semester. VA will make a charge against entitlement for the entire period of certified enrollment, if the eligible person is otherwise eligible for benefits, except when benefits are interrupted under any of the following conditions:

(1) Enrollment is actually terminated;

(2) The eligible person cancels his or her enrollment, and does not negotiate an educational benefits check for any part of the certified period of enrollment;

(3) The eligible person interrupts his or her enrollment at the end of any term, quarter, or semester within the certified period of enrollment, and does not negotiate a check for educational benefits for the succeeding term, quarter, or semester;

(4) The eligible person requests interruption or cancellation for any break when a school was closed during a certified period of enrollment, and VA continued payments under an established policy based upon an Executive Order of the President or an emergency situation. Whether the eligible person negotiated a check for educational benefits for the certified period is immaterial.

(Authority: 38 U.S.C. 1711)

(j) *Education loan after otherwise applicable delimiting date—spouse or surviving spouse.* VA will make a charge against the entitlement of a spouse or surviving spouse who receives an education loan pursuant to § 21.4501(c) at the rate of 1 day for each day of entitlement that would have been used had the spouse or surviving spouse been in receipt of educational assistance allowance for the period for which the loan was granted.

(Authority: 38 U.S.C. 1712)

3. In § 21.4136, paragraph (k)(4) is redesignated as paragraph (k)(5), paragraph (k)(1), and (k)(2)(vii) are revised and paragraphs (k)(2)(viii) and (k)(4) are added to read as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. Chapter 34.

* * * * *

(k) *Mitigating circumstances.* (1) VA will not pay benefits to any veteran for a course from which the veteran withdraws or receives a nonpunitive grade which is not used in computing the requirements for graduation unless—

(i) There are mitigating circumstances,

(ii) The veteran submits a description of the circumstances in writing to VA within 1 year from the date VA notifies the veteran that he or she must submit the description of the mitigating circumstances, and

(iii) The veteran submits evidence supporting the existence of mitigating circumstances within one year of the date that evidence is requested by VA.

(2) * * *

(vii) Unanticipated active duty military service, including active duty for training,

(viii) Unanticipated difficulties in caring for the veteran's or eligible person's child or children.

(Authority: 38 U.S.C. 1780(a); Pub. L. 100-689)

* * * * *

(4) In the first instance of a withdrawal after May 31, 1989, from a course or courses for which the veteran received educational assistance under either title 38, United States Code or chapter 106, title 10, United States Code, VA will consider that mitigating circumstances exist with respect to courses totaling not more than six semester hours or the equivalent. Veterans to whom this subparagraph applies are not subject to the reporting requirement found in paragraph (k)(1)(ii) of this section.

(Authority: 38 U.S.C. 1780(a)(4); Pub. L. 100-689)

* * * * *

4. In § 21.4137, paragraph (h)(4) is redesignated as paragraph (h)(5), paragraph (h)(1), (h)(2)(vii) and the introductory text of paragraph (m), paragraph (m)(1), and (m)(2)(ii) are revised, and paragraphs (h)(2)(viii), (h)(4) and (m)(3) are added to read as follows:

§ 21.4137 Rates; educational assistance allowance—38 U.S.C. Chapter 35.

* * * * *

(h) *Mitigating circumstances.* (1) VA will not pay benefits to any eligible person for a course from which the eligible person withdraws or receives a nonpunitive grade which is not used in computing the requirements for graduation unless—

(i) There are mitigating circumstances,

(ii) The eligible person submits a description of the circumstances in writing to VA within 1 year from the date VA notifies the eligible person that he or she must submit the description of the mitigating circumstances, and

(iii) The eligible person submits evidence supporting the existence of mitigating circumstances within one year of the date that evidence is requested by VA.

(2) * * *

(vii) Unanticipated active duty military service including active duty for training,

(viii) Unanticipated difficulties in caring for the eligible person's child or children.

(Authority: 38 U.S.C. 1780)

* * * * *

(4) In the first instance of a withdrawal after May 31, 1989, from a course or courses for which the eligible person received educational assistance under title 38, United States Code or

under chapter 106, title 10, United States Code, VA will consider that mitigating circumstances exist with respect to courses totaling not more than six semester hours or the equivalent. Eligible persons to whom the provisions of this subparagraph apply are not subject to the reporting requirement found in paragraph (h)(1)(ii) of this section.

(Authority: 38 U.S.C. 1780(a)(4); Pub. L. 100-689)

* * * * *

(m) *Courses leading to a secondary school diploma or equivalency certificate.* The monthly rate of educational assistance allowance payable to an eligible person enrolled in a course leading to a secondary school diploma or equivalency certificate shall be as follows:

(Authority: 38 U.S.C. 1733; Pub. L. 100-689)

(1) The monthly rate shall be the rate for institutional training stated in paragraph (a) of this section if—

(i) Either—

(A) The eligible spouse or surviving spouse was enrolled in the course on October 1, 1980, and

(B) The eligible spouse or surviving spouse has remained continuously enrolled after October 1, 1980, in courses leading to a secondary school diploma or an equivalency certificate; or

(ii) The educational assistance allowance payable to the eligible spouse or surviving spouse is for education or training received after August 14, 1989.

(Authority: 38 U.S.C. 1733; Pub. L. 100-689)

(2) * * *

(ii) The second set of monthly rates is the monthly rate for institutional training found in paragraph (a) of this section. See § 21.3045 of this part for the way in which this election affects the charge against the eligible spouse's or surviving spouse's entitlement.

(3) The monthly rate of educational assistance allowance payable to an eligible child enrolled in a course leading to a secondary school diploma or equivalency certificate shall be the monthly rate for insitutional training stated in paragraph (a) of this section. No educational assistance allowance shall be paid to an eligible child for such education or training pursued before August 15, 1989.

(Authority: 38 U.S.C. 1691, 1733; Pub. L. 96-466. Pub. L. 100-689)

5. In § 21.4200, paragraph (v) is added to read as follows:

§ 21.4200 Definitions.

* * * * *

(v) *"Reservist".* This term means a member of the Selected Reserve or a member of the National Guard or the Air National Guard.

(Authority: 38 U.S.C. 1673(d)

6. In § 21.4201, paragraphs (c)(3)(ii), (c)(4), (e)(2) intorductory text, (e)(2)(i) and (f)(1)(ii) are revised and paragraph (c)(3)(iv)(D) is added to read as follows:

§ 21.4201 Restrictions on enrollment; percentage of students receiving financial support.

* * * * *

(c) * * *

(3) * * *

(ii) Is on or immediately adjacent to a military base, or a facility of the National Guard (including the Air National Guard) or the Selected Reserve,

* * * * *

(iv) * * *

(D) In the case of a course offered on or immediately adjacent to a facility of the National Guard or the Selected Reserve, members of the National Guard, members of the Selected Reserve and their dependents.

(4) The provisions of paragraph (a) of this section generally do not apply to a course when the total number of veterans, eligible persons, and reservists receiving assistance under chapters 30, 31, 32, 34, 35 and 36, title 38, United States Code, and chapter 106, title 10, United States Code, who are enrolled in the educational institution offering the course, equals 35 percent or less of the total student enrollment at the educational institution (computed separately for the main campus and any branch or extension of the institution). However, the provisions of paragraph (a) of this section will apply to such a course when—

(Authority: 38 U.S.C. 1673(d); Pub. L. 98-525, Pub. L. 100-689)

* * * * *

(e) * * *

(2) *Assigning students to each part of the ratio.* Notwithstanding the provisions of paragraph (a) of this section, the following students will be considered to be nonsupported provided VA is not furnishing them with educational assistance under title 38, United States Code or under chapter 106, title 10, United States Code:

(i) Students who are not veterans or reservists, and are not in receipt of institutional aid.

(Authority: 38 U.S.C. 1673(d); Pub. L. 98-525, Pub. L. 100-689)

* * * * *

(f) * * *

(1) * * *

(ii) Until such time as the total number of veterans, eligible persons and reservists receiving assistance under chapters 30, 31, 32, 34, 35, or 36, title 38, United States Code, or chapter 106, title 10, United States Code, who are enrolled in the educational institution offering the course, equals more than 35 percent of the total student enrollment at the educational institution (computed separately for the main campus and any branch or extension of the institution). At that time the procedures contained in paragraph (f)(2) of this section shall apply.

(Authority: 38 U.S.C. 1673(d); Pub. L. 98-525, Pub. L. 100-689)

7. In § 21.4236, paragraphs (c) and (d) are revised to read as follows:

§ 21.4236 Special supplemental assistance (tutorial).

* * * * *

(c) *Educational assistance allowance.* In addition to payment of educational assistance allowance at the monthly rates specified in § 21.4136 or § 21.4137, VA will authorize the cost of the tutorial assistance in an amount not to exceed $100 per month effective November 18, 1988.

(Authority: 38 U.S.C. 1692(b); Pub. L. 91-219, Pub. L. 92-540, Pub. L. 93-508, Pub. L. 94-502, Pub. L. 95-202, Pub. L. 99-466, Pub. L. 98-543, Pub. L. 100-689)

(d) *Entitlement charge.* VA will make no charge against the period of the veteran's entitlement as computed under § 21.1041 of this part or the eligible person's entitlement as computed under § 21.3044. Special supplemental assistance provided under this section will not exceed a maximum of $1,200 effective November 18, 1988.

(Authority: 38 U.S.C. 1690, 1692, 1693; Pub. L. 91-219, Pub. L. 93-508, Pub. L. 94-502, Pub. L. 95-202, Pub. L. 96-466, Pub. L. 98-543, Pub. L. 100-689)

8. In § 21.4237, the section heading, the introductory text to paragraph (a), and paragraph (d) are revised to read as follows:

§ 21.4237 Special assistance for the educationally disadvantaged—Chapter 35.

(a) *Enrollment.* VA may approve the enrollment of an eligible spouse or surviving spouse in an appropriate course or courses at the secondary school level in a State. After August 14, 1989, VA may approve the enrollment of an eligible child in an appropriate course or courses at the secondary school level in a State. This approval may be made only if the eligible person—

(Authority: 38 U.S.C. 1691, 1733; Pub. L. 100-689)

* * * * *

(d) *Entitlement charge.* The provisions of § 21.3045 of this part will determine whether VA will make a charge against the period of the entitlement of the eligible person because of enrollment in courses under the provisions of this section.

(Authority: 38 U.S.C. 1733; Pub. 92-540, Pub. L. 96-466, Pub. L. 100-689)

§ 21.4252 [Amended]

9. In § 21.4252, paragraph (f) is removed.

[FR Doc. 90-15717 Filed 7-6-90; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL 3806-5]

Schedule of Compliance for Modification of Kentucky's Hazardous Waste Program

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of Kentucky's compliance schedule to adopt program modifications.

SUMMARY: On September 22, 1986 EPA promulgated amendments to the deadlines for State program modifications, and published requirements for States to be placed on a compliance schedule to adopt necessary program modifications. EPA originally published a compliance schedule for Kentucky to modify its program in accordance with § 271.21(g) to adopt the Federal program modifications on February 16, 1990. EPA is today publishing a revised compliance schedule to adopt the Federal program modifications in accordance with § 271.21(g).

FOR FURTHER INFORMATION CONTACT: Howell K. Lucius, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 347-5059.

SUPPLEMENTARY INFORMATION:

Background

Final authorization to implement the Federal hazardous waste program within the State is granted by EPA if the Agency finds that the State program (1) is "equivalent" to the Federal program, (2) is "consistent" with the Federal program and other State programs, and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6226(b). EPA regulations for final authorization appear at 40 CFR 271.1-271.24. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the cluster deadlines and procedures specified in 40 CFR 271.21. See 51 FR 33712, September 22, 1986 for a complete discussion of these procedures and deadlines.

Kentucky

Kentucky initially received final authorization for the RCRA Base Program of January 31, 1985, (50 FR 2550 January 17, 1985). Kentucky received final authorization for Radioactive Mixed Waste equivalence on December 19, 1989 (53 FR 41164) and for non-HSWA Cluster II equivalence on March 20, 1989. On November 15, 1988, Kentucky submitted a complete, final program revision application for approval for federal regulations promulgated between January 1, 1983 and June 30, 1985, known as requirements prior to non-HSWA Cluster I and non-HSWA Cluster II. This application included Kentucky's demonstration of Availability of Information equivalence with RCRA section 3006(f) Freedom of Information requirements. On November 23, 1988, Kentucky submitted a complete final program revision application for approval for federal regulations promulgated between July 1, 1986 and June 30, 1987, known as non-HSWA Cluster III. Kentucky received final authorization for Requirements Prior to non-HSWA Cluster I, non-HSWA Cluster III and Availability of Information on May 15, 1989 (54 FR 20849). Today EPA is publishing a revised compliance schedule for Kentucky to obtain program revisions for the Federal program requirements for federal regulations promulgated between July 1, 1987 and June 30, 1988 known as non-HSWA Cluster IV.

The State has agreed to obtain the needed program revisions according to the following revised schedule or earlier if practicable.

Date	Interim milestones
May 15, 1990	Regulations drafted.
May 15, 1990	Draft regulations to Kentucky Department of Law and Environmental Protection Agency for review.
June 15, 1990	Kentucky Environmental Quality Commission (EQC).
June 15, 1990	Regulations to Kentucky Legislative Research Commission.
June 15, 1990	Public notice published.
Aug. 9, 1990	Regulations published in Kentucky Administrative Register.
Aug. 9, 1990	Public participation by public hearing.
Aug. 24 1990	Comments due from EPA
Sept. 14 1990	Statement of Consideration.
Oct. 14 1990	Regulations republished in Kentucky Administrative Register.
Oct. 29, 1990	Through Administrative Review and Agriculture and Natural Resources sub-committees.
Nov. 15, 1990	Effective date of regulations.

Kentucky expects to submit an application to EPA for authorization of the above mentioned program revisions by January 1, 1991.

Authority:

This notice is issued under the authority of sections 2002(a) 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(B).

Dated: June 18, 1990.

Lee A. Debilhs III,

Acting Regional Administrator.

[FR Doc. 90-15808 Filed 7-6-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 87-213; FCC 90-234]

Trunking in the Private Land Mobile Radio Services for More Effective and Efficient Use of the Spectrum

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended part 90 of its Rules to increase the number of frequencies available for trunked technology in the 800 MHz frequency band. Specifically, the Rules have been amended to allow trunked operation on a regular basis on 150 frequencies listed in § 90.615 that had previously been available only for conventional operation. This action was taken in order to encourage more efficient technology and to promote spectrum use.

EFFECTIVE DATE: These rules become effective August 24, 1990.

ADDRESSES: FCC, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in PR Docket No. 87-213, adopted on June 14, 1990, and released on June 2, 1990. The full text of the

Report and Order is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, 2100 M Street NW., suite 140, Washington, DC 20037, (202) 857-3800.

Summary of Report and Order

1. This Report and Order terminates a proceeding initiated by a Notice of Inquiry (NOI), 2 FCC Rcd 3820 (1987), 52 FR 25265, July 6, 1987, followed by a Notice of Proposed Rule Making (Notice), 4 FCC Rcd 312 (1989), 54 FR 1967, January 18, 1989. In the Notice the Commission proposed to convert 150 channels currently set aside exclusively for conventional use above 800 MHz to a General Category for both trunked and conventional use. The Commission proposed that existing trunked systems could use unassigned channels in the General Category for trunked operation or could combine with existing conventional systems (whether constructed or not) and convert them to trunked use if they met intercategory sharing criteria. The Commission also proposed that existing conventional systems in the General Category could convert to trunked use or combine and convert to trunked use. In addition, the Commission proposed to permit completely new trunked systems using unassigned channels to use unassigned General Category channels. Finally, the Commission proposed to include SMR systems and the SMRS category above 900 MHz in the intercategory sharing provisions that were to become effective May 16, 1990, above 900 MHz for the Business and Industrial/Land Transportation Categories and their eligibles.

2. Commenters generally supported creation of a General Category to permit both trunked and conventional use of the 150 conventional channels at 800 MHz. No commenters, however, supported "bare license transfer" of conventional channels not yet constructed or operational in the General Category for trunked use. Almost all commenters opposed opening the General Category to creation of completely new trunked systems.

3. The Report and Order adopts rules creating a General Category to make the 150 conventional channels at 800 MHz available for both conventional and trunked use. Rules permitting access to these channels for trunked use for existing trunked systems and for existing conventional systems seeking to combine and/or convert were adopted largely as proposed. Resultant trunked systems using General Category channels may have no more than one channel in addition to the number of channels loading warrants. Coordination of trunked use of General Category channels is required; in almost every instance and certified coordinator above 800 MHz may be used.

4. In order to achieve a balance between the needs of existing trunked systems for additional spectrum and licensees and applicants that find conventional systems most suitable for their communications needs, the Commission declined to adopt proposed rules that would have permitted "bare license transfer" of General Category conventional systems. For the same reasons the Commission also declined to adopt proposed rules that would have permitted completely new trunked systems to use unassigned General category channels. The Commission also declined to adopt proposed rules to add SMR systems and the SMRS Category above 900 MHz to intercategory sharing options available to Business and Industrial/Land Transportation Categories and eligibles above 900 MHz as premature.

5. Pursuant to the Regulatory Flexibility Act 1980, 5 U.S.C. 604, a final regulatory flexibility analysis has been prepared. It is available for public review as part of the full text of this document.

6. The rules adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new modified form, information collection and/or recordkeeping, labeling, disclosure or record retention requirements.

List of Subjects in 47 CFR Part 90

Radio, Trunking.

Rule Changes

PART 90—[AMENDED]

Part 90 of chapter 1 of title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 90 is modified to read as follows:

Authority: Secs. 4, 303, 331, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, and 332 unless otherwise noted.

2. Section 90.609 is amended by revising the title, by revising paragraph (c), and by adding a new paragraph (d) to read as follows:

§ 90.609 Special limitations on amendment of applications for assignment or transfer of authorizations for radio systems above 800 MHz.

* * * * *

(c) Licensees of constructed systems in any category other than the General Category are permitted to make partial assignments of an authorized grant to an applicant proposing to create a new system or to an existing licensee that has loaded its system to 70 mobiles per channel and is expanding that system. An applicant authorized to expand an existing system or to create a new system with frequencies from any category other than the General Category obtained through partial assignment will receive the assignor's existing license expiration date and loading deadline for the frequencies that are assigned. A licensee that makes a partial assignment of a station's frequencies will not be authorized to obtain additional frequencies for that station for a period of one year from the date of the partial assignment.

(d) A constructed system in the General Category that is authorized to operate in the conventional mode may be combined with an existing system above 800 MHz authorized to operate in the trunked mode by assignment of an authorized grant of one station to the other only if:

(1) The trunked system is loaded to 70 mobiles per channel;

(2) The purpose of the assignment is to expand the trunked system.

(3) For all trunked systems that are not SMRs, the assignment application must include a statement from the trunked system's own frequency coordinator verifying that there are no available frequencies in the trunked system's service category in the frequency bands 806-824/851-869 MHz (trunked systems that are SMRs must submit evidence of existence of a current waiting list for SMRs in the geographic area in lieu of this requirement).

(4) Each application must include a signed statement listing any co-channel licensees (including call signs) located within 70 miles of the primary site of the trunked system verifying that they all have agreed to the proposed trunked use (see § 90.621(c)).

(5) Each application must include a statement of construction and operation signed by the licensee of the conventional system. The statement of construction and operation must include the date of construction, location constructed (coordinates), the date the system was placed in operation (i.e., the date mobiles/portables began to interact with the mobile relay(s)), and a listing of the frequencies that are operational.

(6) All frequencies being trunked together must be located at a primary site.

(7) As a result of the assignment the assignee must have a number of channels that does not exceed one channel more than its current loading warrants. If, as a result of the assignment, the assignee obtains the maximum number of channels possible (one channel more than current loading warrants), and if the assignee is on the SMR waiting list for the geographic area in which it receives the assignment, the assignee shall forfeit its position on that waiting list.

(8) Each application must be coordinated by one of the three recognized category coordinators above 800 MHz.

(9) The assignee shall receive a new five-year license grant.

(3) Section 90.611 is amended by revising paragraph (c) to read as follows:

§ 90.611 Processing of applications.

* * * * *

(c) Each application will be reviewed to determine whether it can be granted. Applicants for frequencies in the Public Safety, Business, Industrial/Land Transportation, and General Categories must specify the intended frequency (or frequencies) of operation. Applicants for frequencies in the SMRS Category may either specify the intended frequency (or frequencies) of operation in accordance with the provisions of § 90.621 or request the Commission to perform the selection.

* * * * *

4. Section 90.615 is amended by revising the section heading; revising the existing text and designating it as paragraph (a); and adding a new paragraph (b) to read as follows:

§ 90.615 Frequencies available in the General Category.

(a) Frequencies in the 806–809.750/851–854.750 MHz bands (Channels 1–150) are allocated to the General Category for conventional operations. The frequencies are available to all eligibles under this subpart (see § 90.603) for conventional operations in areas farther than 110 km (68.4 miles) from the U.S./Mexico border and farther than 140 km (87 miles) from the U.S./Canada border.

(b) Frequencies in this category may also be used for trunked operations in these same areas in accordance with the following:

(1) A licensee of a station in the General Category authorized to operate in the conventional mode may apply to operate instead in the trunked mode. A licensee applying to convert its station from the conventional to the trunked mode may apply for a number of channels not to exceed one more channel than its current loading warrants.

(2) Licensees of stations authorized to operate in the conventional mode in the General Category may combine channels with licensees of stations authorized to operate in the conventional mode in any category, including the General Category, to form a trunked system provided that:

(i) Each of the stations licensed for channels that are to be combined is constructed and operating.

(ii) Each application must include a written signed statement from each co-channel licensee located within 70 miles of the primary site of the trunked system verifying that each such licensee has agreed to the proposed trunked use (see § 90.621(c)). The statement(s) should include each licensee's call sign.

(iii) All frequencies being trunked together must be located at a primary site.

(iv) Each application must be coordinated by one of the three recognized category coordinators above 800 MHz.

(v) The combining must result in one of two licensing forms:

(A) Each of the licenses to be combined may be simultaneously modified to result in one licensee for one trunked system, or

(B) Each of the licensees for existing conventional systems that are to be combined to form a trunked system may simultaneously modify their licenses to reflect that they are to be multiple licensed on a new trunked system.

(vi) As a result of the combining, the new trunked system must have a number of channels that does not exceed one channel more than its current loading warrants.

(vii) The surviving licensee(s) receive a new five-year license grant.

(3) General Category frequencies may be used for trunked system expansion in accordance with § 90.621(g).

5. Section 90.621 is amended by revising the introductory text of, paragraph (a), paragraphs (a)(1)(i), (a)(1)(iii), (c), (d), and (e); revising the introductory text in paragraph (g); redesignating existing paragraphs (g) (3), (4), and (5) to (g) (4), (5), and (6), respectively; and adding a new paragraph (g)(3) to read as follows:

§ 90.621 Selection and assignment of frequencies.

(a) Applicants for frequencies in the Public Safety, Industrial/Land Transportation, Business, and General Categories must specify on the application the frequencies on which the proposed system will operate pursuant to a recommendation by the applicable frequency coordinator. Applicants for frequencies in the SMRS Category may either request specific frequencies by including in their applications justification for the frequencies requested or may request the Commission to select frequencies for the system from the SMRS Category.

(1) * * *

(i) Channels will be chosen and assigned in accordance with §§ 90.615, 90.617, or 90.619.

* * * * *

(iii) There are no limitations on the number of frequencies that may be trunked. Except as indicated in paragraph (a)(1)(iv) of this section, authorizations may be granted for up to 20 trunked frequency pairs at a time in accordance with the frequencies listed in §§ 90.615, 90.617, and 90.619.

* * * * *

(c) Trunked systems authorized on frequencies in the Public Safety, Industrial/Land Transportation, Business, and General Categories will be protected solely on the basis of predicted contours. Coordinators will attempt to provide a 40 dBu contour and to limit co-channel interference levels to 30 dBu over an applicant's requested service area. This would result in a mileage separation of 70 miles for typical system parameters. Applicants should be aware that in some areas, *e.g.*, Seattle, Los Angeles, and northern California, separations greater than 70 miles may be appropriate. Separations may be less than 70 miles where the requested service areas, terrain, or other factors warrant reduction. In the event that the separation is less than 70 miles, the coordinator must indicate that the protection criteria have been preserved or that the affected licensees have agreed in writing to the proposed system. Only co-channel interference between base station operations will be taken into consideration. Adjacent channel and other types of possible interference will not be taken into account.

(d) Conventional systems authorized on frequencies in the Public Safety (except for those systems that have participated in a formal regional planning process as described in § 90.16), Industrial/Land Transportation, Business, and General Categories that have met the loading level necessary for channel exclusivity will be protected in the same fashion as described in paragraph (c) of this section.

(e) Conventional systems authorized on frequencies in the Public Safety (except for those systems that have

participated in a formal regional planning process as described in § 90.16), Industrial/Land Transportation, Business, and General Categories which have not met the loading levels necessary for channel exclusivity will not be afforded co-channel protection.

* * * * *

(g) Frequencies in the 806–821/851–866 MHz bands listed as available for eligibles in the Public Safety, Industrial/Land Transportation, Business, General, and SMRS Categories are available for inter-category sharing under the following conditions:

* * * * *

(3) Channels in the General Category are available to fully-loaded trunked Public Safety, Industrial/Land Transportation, Business, and SMR Category systems for expansion provided that:

(i) For non-SMR applicants, the application must include a statement from the applicant's own frequency coordinator verifying that there are no available frequencies in the applicant's service category in the frequency bands 806–824/851–869 MHz. For SMR applicants, the application must include a statement that no SMRS Category frequencies are available in the 806–824/851–869 MHz frequency bands supported by evidence of the existence of a current waiting list for SMRs in that geographic area.

(ii) As a result of the addition of any unused channels in the General Category to an existing trunked system, the number of channels that may be assigned to the station(s) authorized to operate that system may not exceed one channel more than its current loading warrants. If, as a result of the addition of General Category channels, an applicant obtains the maximum number of channels possible (one channel more than current loading warrants), and if the applicant is on the SMR waiting list for the geographic area in which it receives the channels, the applicant shall forfeit its position on that waiting list.

(iii) All frequencies being trunked together must be located at a primary site.

(iv) The application must be coordinated by one of the three recognized category coordinators above 800 MHz.

* * * * *

6. Section 90.629 is amended by revising the introductory text to read as follows:

§ 90.629 Extended implementation schedules.

Applicants requesting frequencies in the Public Safety, Industrial/Land Transportation, Business, and General Categories for either trunked or conventional operations may be authorized a period of up to three (3) years for placing a station in operation in accordance with the following:

* * * * *

7. Section 90.631 is amended by adding a sentence to paragraph (b) after the sentence ending with the word "automatically" and before the sentence starting with the word "All" to read as follows:

§ 90.631 Trunked systems loading, construction and authorization requirements.

* * * * *

(b) * * * If a trunked system has channels from more than one category, General Category channels are the first channels considered to cancel automatically. * * *

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-15778 Filed 7-6-90; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 55, No. 131
Monday, July 9, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket No. FV-89-201]

Potatoes; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed action would revise the United States Standards for Grades of Potatoes. The proposal would establish diameter measurements as the basis for scoring hollow heart and certain other internal defects and rephrase sections for clarity. The Agricultural Marketing Service (AMS), has the responsibility to develop and improve standards of quality, condition, quantity, grade, and packaging in order to encourage uniformity and consistency in commercial practices.

DATES: Comments must be postmarked or courier dated on or before September 7, 1990.

ADDRESSES: Interested parties are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, room 2056 South Building, Washington, DC 20090-6456. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Michael J. Dietrich, at the above address or call (202) 447-2185.

SUPPLEMENTARY INFORMATION: This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule for the revision of U.S. Standards for Grades of Potatoes will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. In addition, under the Agricultural Marketing Act of 1946, the application of these standards is voluntary, so members of the potato industry need not have their product certified under these standards, thereby incurring no costs at all.

The United States Standards for Grades of Potatoes (7 CFR 51.1540-51.1566) were last revised in February 1972. The standards are authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et. seq.). The Idaho Grower Shippers Association, an industry organization, requested that the U.S. Department of Agriculture revise the standards to require that hollow heart and certain other internal defects be scored based on specific diameter measurement rather than the current method which scores a defect if it affects the appearance of the specimen.

Proponents of the proposed revision feel that changing to an objective measurement would provide more accurate and consistent scoring of hollow heart, internal light brown discoloration, and internal brown spot.

In order to effectuate the proposed changes, it is proposed that Table IV of § 41.1565 be revised to include the diameter measurements for determining whether a defect is scorable. Also, previous industry practice was to pack potatoes with designated sizes (i.e. 80, 90, 100) in standard 50 pound cartons. In the proposed standard Section 51.1545 on Size would be reworded to allow industry to market potatoes of a designated size in any type container which would be consistent with today's marketing practices. Finally, "equivalent basis" would be added to § 51.1546 in the Tolerance section to allow sampling of uniformly sized potatoes by count instead of weight.

These changes would provide a U.S. standard which would include more objective scoring guides, be more concise and easier to understand, which would benefit both industry and USDA in that potatoes could be more uniformly graded and certified.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Vegetables.

PART 51—[AMENDED]

For reasons set forth in the preamble, it is proposed that 7 CFR part 51 be amended to read as follows:

1. The authority citation for 7 CFR part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624, unless otherwise noted.

2. Section 51.1545 paragraph (b) would be revised to read as follows and the tables following paragraph (b) would remain unchanged:

§ 51.1545 Size.

* * * * *

(b) When size is designated as shown in Table II, the corresponding weight ranges shall apply. These size designations may be applied to potatoes packed in any size container: Provided, that the weight ranges are within the limits specified.

* * * * *

3. Section 51.1546 the introductory text would be revised to read as follows:

§ 51.1546 Tolerances.

To allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances by weight or equivalent basis, are provided as specified.

* * * * *

4. Section 51.1565 Table IV would be revised to read as follows:

§ 51.1565 Internal defects.

* * * * *

TABLE IV—INTERNAL DEFECTS

Defects	Damage maximum allowed	Serious damage maximum allowed
Occurring outside of or not entirely confined to the vascular ring		
Ingrown sprouts, internal black spot, internal discoloration, vascular browning, fusarium wilt, net necrosis, other necrosis, stem end browning.	5% waste.....	10% waste.
Occurring entirely within the vascular ring		
Hollow heart or hollow heart with discoloration.	Area affected not to exceed that of a circle ½ inch in diameter in a potato 2½ inches in diameter or 6 ounces in weight.[1].	Area affected not to exceed that of a circle ¾ inch in diameter in a potato 2½ inches in diameter or 6 ounces in weight.[1]
Light brown discoloration (brown center).	Area affected not to exceed that of a circle ½ inch in diameter in a potato 2½ inches in diameter or 6 ounces in weight.[1].	Area affected not to exceed that of a circle ¾ inch in diameter in a potato 2½ inches in diameter or 6 ounces in weight.[1]
Internal brown spot and similar discoloration (heat necrosis).	Not more than the equivalent of 3 scattered spots ⅛ inch in diameter in a potato 2½ inches in diameter or 6 ounces in weight.[1].	Not more than the equivalent of 6 scattered spots ⅛ inch in diameter in a potato 2½ inches in diameter or 6 ounces in weight.[1]

[1] Note: Correspondingly lesser or greater areas in smaller or larger potatoes.

Dated: July 3, 1990.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 90-15828 Filed 7-6-90; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants, and Children (WIC): Nonfunding Mandates of the Child Nutrition and WIC Reauthorization Act of 1989

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend regulations governing the Special Supplemental Food Programs for Women, Infants, and Children (WIC) to comply with mandates of sections 123 and 213 of the Child Nutrition and WIC Reauthorization Act of 1989 (Pub. L. 101-147), enacted on November 10, 1989 which are not related to the allocation and use of program funds. The following major areas of WIC program operation are addressed in this rulemaking: adjunct income eligibility, program access, dissemination of program information, and breastfeeding promotion activities. This proposal would also expand State agencies' discretion to mail food instruments to participants, allow certain States to implement WIC income eligibility guidelines at the same times as Medicaid guidelines (but not later than July 1), and reduce the frequency with which all States must review their local agencies from annual to biennial. A number of minor mandates of Public Law 101-147 are also addressed in this rulemaking.

Finally, this proposed rule would incorporate into the WIC Program regulations by reference the following Department-wide rules: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 7 CFR part 3016; and Governmentwide Debarment and Suspension (Non-Procurement) and Governmentwide Requirements for a Drug-Free Workplace (Grants), 7 CFR part 3017.

DATES: To be assured of consideration, comments on this rule must be received on or before August 8, 1990.

ADDRESSES: Comments may be mailed to Ronald J. Vogel, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1018, Alexandria, VA 22302, (703) 756-3746. Because the Department will be receiving comments simultaneously on several rulemakings relative to the WIC Program, comments on this rule should be clearly labeled "Nonfunding Mandates of the Child Nutrition and Reauthorization Act of 1989," in order to facilitate the comment review process. All written submissions will be available for public inspection at this address during regular business hours (8:30 a.m. to 5 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Philip K. Cohen, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1017, Alexandria, Virginia, 22302, (703) 756-3730.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been reviewed under Executive Order 12291, and has been determined to be not major. The Department does not anticipate that this rule will have an impact on the economy of $100 million or more. This rule will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions. Further, this rule will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). Pursuant to that review, the Administrator of the Food and Nutrition Service (FNS) has certified that this proposed rule will not have a significant impact on a substantial number of small entities.

The reporting requirements established by this rulemaking in § 246.4 are being reviewed by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3505).

This program is listed in the Catalog of Federal Domestic Assistance Programs under 10.557 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, and final rule-related notice published June 24, 1983 (48 FR 29114)).

Background

Public Law 101-147 contains nearly 70 separate WIC-related provisions, 56 of which must be implemented through the regulatory process. The statutory mandates cover a wide range of program functions, and not all of the mandates have the same statutory implementation deadline. For these reasons, the WIC provisions in Public Law 101-147 are being implemented in several different rulemakings rather than one. This proposal addresses nonfunding discretionary and nondiscretionary mandates of the law which are required by statute to be implemented in final regulations by July 1, 1990. This proposed rule also incorporates by reference two Department-wide regulations which

apply to WIC: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 7 CFR part 3016; and Governmentwide Debarment and Suspension (Non-Procurement) and Government Requirements for a Drug-Free Workplace (Grants), 7 CFR part 3017.

It should be noted that several WIC provisions of Public Law 101–147 have already been implemented through recent rulemakings. Specifically, the requirements of sections 123(a)(4)(A)(iv) and 123(a)(4)(E) concerning the State Agency option to provide WIC benefits to, and to modify food delivery systems for, incarcerated persons are addressed in an interim rule published on December 14, 1989 (54 FR 51289) entitled "Participation of Homeless Individuals." As amended by the interim rule, §§ 246.2 (the new definition of "institution," which encompasses correctional facilities), 246.4(a)(19) (State plan requirements), and 246.7(m) (the State agency option to allow otherwise eligible residents of institutions to participate in WIC if the institutions meet specified conditions) fully implement the provisions in Public Law 101–147 relative to incarcerated persons. The preamble to the December 14, 1989, regulatory amendment specifically mentions prisons/correctional facilities in the discussion of institutional residents' WIC eligibility. No additional rulemaking will be promulgated in this regard. Automatic WIC income eligibility for current, fully eligible recipients of Food Stamps, AFDC, and Medicaid benefits, and the State agency option to exclude military off-base housing allowance payments from an applicant's countable income for purposes of determining WIC income eligibility are addressed in a final rule published February 1, 1990 (55 FR 3385).

Among other things, section 123(a)(6) of Public Law 101–147 amends section 17(h) of the Child Nutrition Act (CNA) of 1966 by adding a new section 17(h)(8) which augments food cost containment mandates. The new cost containment mandates were implemented in an interim rulemaking published on March 15, 1990 (55 FR 9709). Finally, the requirements of sections 123 (a)(3)(D) and (a)(4)(A)(i)(II) of Public Law 101–147 regarding the provision of information on, and coordination with, substance abuse counseling and treatment services were included in a separate proposed rule issued on March 30, 1990 at 55 FR 11946. Although these requirements are closely related to the information dissemination and referral requirements addressed in this rule, they were proposed separately in order to present all drug-related provisions of this statute and of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690) together in a single rulemaking.

Public Law 101–147 contains a number of provisions directed toward the enhancement of breastfeeding promotion and support activities in the WIC Program. These requirements affect all aspects of Program operations. All of the breastfeeding provisions are included in this rulemaking except one, which addresses grant utilization. In addition to mandating operational provisions, Public Law 101–147 earmarks $8 million of WIC administrative funding to be used each year for breastfeeding promotion and support activities (section 123(a)(6)). Each State agency must, in addition to the existing requirement to expend at least one-sixth of its administrative and nutrition services funds on nutrition education activities, expend its proportionate share of the $8 million on activities specifically designed to promote and support breastfeeding among WIC participants. This provision is addressed in a separate proposed rule which will incorporate the nondiscretionary funding mandates of Public Law 101–147.

The significant number of provisions in Public Law 101–147 concerning breastfeeding promotion and support activities, and the level of detail with which most of these provisions are addressed, clearly demonstrate strong Congressional support for breastfeeding promotion and support efforts in the WIC Program. This strong support, in turn, reflects nutritional science and medical opinion that breastfeeding can significantly enhance the well being of participating infants.

The Department shares this belief and has always actively encouraged the promotion and support of breastfeeding as the most desirable method of infant feeding. Program regulations already contain a number of provisions in support of breastfeeding. Furthermore, the Department has taken non-regulatory actions in this area, including the development of publications to help local agency staff teach participants about breastfeeding; participation in cooperative efforts with other Federal agencies and organizations to promote breastfeeding; and the award of grants for projects on breastfeeding, such as the funding of a WIC Breastfeeding Promotion Study and Demonstration to identify, evaluate, and demonstrate approaches to promote breastfeeding effectively in WIC. Implementation of the provisions regarding breastfeeding contained in Public Law 101–147 will serve to strengthen the emphasis in current regulations by focusing more attention on the promotion and support of breastfeeding activities at both the State and local levels. State and local agencies are encouraged to expand their efforts to increase the incidence and duration of breastfeeding among WIC participants.

Individual provisions of this final rulemaking are discussed in detail below.

1. References to 7 CFR Part 3016

Until the publication of the final rule entitled "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" on March 11, 1988 (53 FR 8044), such requirements were set forth in 7 CFR part 3015. This rule was promulgated to establish consistency and uniformity among some 23 Federal agencies in the administration of grants to, and cooperative agreements with, State, local, and federally-recognized Indian tribal governments. The final rule was published as 7 CFR part 3016, replacing part 3015 for most grants and subgrants to these government entities effective October 1, 1988. Therefore, this rule would change all references to 7 CFR part 3015 contained in 7 CFR part 246 to "7 CFR part 3016."

2. Breastfeeding Provisions (§§ 246.2, 246.3(e)(4), 246.11(c)(2), 246.11(c)(3), 246.11(c) (5)–(6) and (8), and 246.14(c)(10))

Public Law 101–147 established a number of mandates relative to breastfeeding. This rule would implement the following nondiscretionary provisions: (1) Require that the State agency include in its annual plan of operations a plan to promote breastfeeding and to coordinate WIC operations with local programs for breastfeeding promotion, (2) require each State agency to designate an agency staff member to coordinate breastfeeding promotion efforts, (3) require that the State agency provide training to persons providing breastfeeding promotion and support, (4) authorize the purchase of breastfeeding aids by State and local agencies as an allowable administrative expense, and (5) require that the State agency provide breastfeeding promotion materials in languages other than English. The present rulemaking would also revise program regulations to implement the discretionary breastfeeding provisions, which are: (1) Definition of "breastfeeding," and (2) breastfeeding promotion and support standards and

annual evaluation of breastfeeding promotion and support efforts.

a. Definition of "Breastfeeding" (§ 246.2)

Section 123(a)(6) of Public Law 101-147 adds a new section 17(h)(4)(A) to the CNA of 1966 to require the Department, in consultation with the Secretary of Health and Human Services, to develop a definition of "breastfeeding" for the purpose of the WIC Program. The Committee on Breastfeeding Promotion of the National Association of WIC Directors (NAWD), along with other experts on breastfeeding and representatives from USDA and the Office of Maternal and Child Health in the Department of Health and Human Services (DHHS), was asked by the Department to provide input on developing a national definition of breastfeeding. The NAWD Committee has recommended that "breastfeeding" be defined as an activity performed on average of at least once a day, and DHHS has concurred.

As required by the statute, this definition would be mandatory for all aspects of the WIC Program, including the evaluation of promotional efforts and the determination of categorical eligibility as a breastfeeding woman. The definition recommended by the committee conforms both to the Center for Disease Control's (CDC) definition of breastfeeding, used by CDC for prenatal and pediatric surveillance, and to the Health Objectives for the Nation established by the Surgeon General. This definition also recognizes that any breastfeeding, even if only once a day, provides some immunological and nutritional benefits which would otherwise not be provided to an infant. Accordingly, the following definition of "breastfeeding" is proposed to be added to § 246.2: "the practice of feeding a mother's breastmilk to her infant(s) on the average of at least once per day."

Section 123(a)(6) of Public Law 101-147 adds a new section 17(h)(3)(A)(ii) to the CNA of 1966 requiring that each State agency annually spend on breastfeeding promotion and support activities its proportionate share of an amount equal to $8 million based on "the number of pregnant women and breastfeeding women in the program in the State as a percentage of the number of pregnant women and breastfeeding women in the program in all States." Since it would not be possible to propose and establish a final definition of "breastfeeding" in time to be applied to implementation of the spending quota in Fiscal Year 1990, as mandated by Public Law 101-147, State agencies' spending quotas for that fiscal year will be based on the definitions which they currently employ. The new definition to be established through the rulemaking process would provide the basis for establishing spending quotas in subsequent fiscal years.

b. Designation of Breastfeeding Coordinator (§ 246.3(e)(4))

Section 123(a)(6) of the law amends section 17(h)(4)(C) of the CNA of 1966 to require each State agency "to designate an agency staff member to coordinate breastfeeding promotion efforts identified in the State plan of operation and administration." The breastfeeding promotion coordinator's position would therefore be added to the list of State staffing requirements set forth in § 246.3(e).

c. Training for Breastfeeding Promotion (§ 246.11(c)(2))

Section 123(a)(6) of Public Law 101-147 adds a new section 17(h)(4)(D) to the CNA of 1966 requiring the State agency "to provide training on the promotion and management of breastfeeding to staff members of local agencies who are responsible for counseling WIC participants * * * concerning breastfeeding." The joint statement of explanation accompanying H. R. 24 (the bill which became Public Law 101-147) (*Congressional Record*, October 10, 1989, H6865) stipulates, however, that it is not the intention of Congress to require States to hire specialists to promote breastfeeding if trained staff and medical professionals are available and are currently promoting breastfeeding and counseling WIC participants about it. This requirement would be implemented in § 246.11(c)(2).

d. Provision of Non-English Breastfeeding Materials (§ 246.11(c)(3))

Section 17(f)(14)(A) of the CNA of 1966 currently requires State agencies to provide nutrition education materials to local agencies in languages other than English in areas where a substantial number of low-income households speak other languages. Section 123(a)(4)(D) of Public Law 101-147 amends section 17(f)(14)(A) of the CNA of 1966 to add breastfeeding promotion materials and instruction to this requirement. The joint statement of explanation accompanying H. R. 24 (*Congressional Record*, October 10, 1989, H6863) clarifies that Congress does not expect State agencies to develop and produce all such materials on their own in cases where private entities have donated a sufficient supply of materials which include correct, complete, and up-to-date information. Furthermore, the Department believes that any printed information, either about breastfeeding, nutrition education, or the application/ certification process itself, should reflect, where possible, the reading level of the participants, regardless of the language used. To this end, § 246.11(c)(3) would be revised to require that the State agency "identify or develop resources and educational materials, including breastfeeding promotion and instruction materials, for use in local agencies, taking reasonable steps to include materials in languages other than English, in areas where a significant number or proportion of the population needs the information in a language other than English, considering the size and concentration of such population, and where possible, the reading level of the participants."

e. Breastfeeding Promotion and Support Standards and Evaluation (§§ 246.11(c)(5)-(6) and (8))

Section 123(a)(3)(C) of Public Law 101-147 adds a new section 17(e)(2) to the CNA of 1966 mandating that the Department "prescribe standards to ensure that adequate * * * breastfeeding promotion and support are provided."

The Department requested the assistance of NAWD's *ad hoc* Committee on Breastfeeding Promotion in developing and prescribing the breastfeeding promotion standards required by Public Law 101-147. The standards recommended by the Committee were based on a position paper previously developed by NAWD on Breastfeeding Promotion. They reflect the concern of NAWD that standards such as these be general in nature. The Department proposes to add these standards, as listed below, in new § 246.11(c)(8) (i)-(iv):

Standard 1: The State agency shall develop a policy that creates a positive clinic environment which endorses breastfeeding as the preferred method of infant feeding.

Standard 2: Each local agency shall designate a staff person to coordinate breastfeeding promotion and support activities.

Standard 3: The State and local agency shall incorporate task-appropriate breastfeeding promotion and support training into orientation programs for new staff involved in direct contact with WIC clients.

Standard 4: The State agency shall develop a plan to ensure that women have access to breastfeeding promotion and support activities during the prenatal and postpartum periods.

New section 17(e)(2) of the CNA of 1966 also mandates that States annually evaluate breastfeeding promotion and support activities. Such evaluations

must include the views of participants concerning the effectiveness of the nutrition education and breastfeeding promotion and support they received. Section 246.11(c)(5) of the WIC regulations already requires WIC State agencies to perform and document annual evaluations of nutrition education activities, which have always encompassed breastfeeding promotion. Section 246.11(c)(5) already requires this evaluation to include an assessment of participants' views on the effectiveness of the nutrition education they have received, on an annual basis. This rule would highlight the legislative requirement for an annual evaluation of breastfeeding promotion and support activities by including in § 246.11(c)(5) a specific reference to the evaluation of breastfeeding promotion and support. In addition, a conforming amendment would be added to § 246.11(c)(6) to ensure that State agencies monitor local agency compliance with the breastfeeding promotion and support standards listed in the newly created § 246.11(c)(8).

f. Breastfeeding Aids as an Allowable Administrative Expense § 246.14(c)(10)

Section 123(a)(6) of Public Law 101–147 adds a new section 17(h)(4)(B) to the CNA of 1966 mandating that the Department "authorize the purchase of breastfeeding aids by State and local agencies as an allowable expense under nutrition services and administration." Accordingly, this rule would allow, but would not require, State agencies to purchase, and authorize their local agencies to purchase, breastfeeding aids with WIC administrative and program services funds. Breastfeeding aids include, but are not limited to, devices such as breast pumps, breastshells, and nursing supplementers, which directly support the initiation and continuation of breastfeeding.

Breast pumps, including manual, battery-operated, or electric models, are used to express breast milk for storage and later use or to relieve over-fullness. Breastshells (*i.e.*, breastshields and breast cups) are used for correcting inverted nipples. A pregnant woman with this problem is usually encouraged to start wearing such a device as early in pregnancy as possible. If the problem continues after the infant is born, it may be necessary to wear the aid between breastfeedings. Nursing supplementers are small tubes which are taped against the mother's body through which infant formula or other nourishment is expressed as the infant breastfeeds. This permits the mother to supplement breastfeeding when the supply of breastmilk is insufficient to meet the infant's nutritional needs without resorting to bottlefeeding. Avoiding the use of a bottle for supplementary feeding eliminates possible confusion for the infant who is learning how to breastfeed.

Other devices or aids, such as nursing pads or nursing bras, which also directly support the initiation and continuation of breastfeeding, may also be purchased with administrative funds. However, State and local agencies should weigh the benefits of providing such marginal equipment, which provides less direct support for the initiation and continuation of breastfeeding, against the importance of management functions and participant benefits (*e.g.*, nutritional counseling) that could otherwise be provided or enhanced with the administrative funds. The Department recommends that States establish very specific policy for local agencies regarding what, if any, types of breastfeeding aids may be purchased so that the most efficient use is made of limited administrative funding resources. While all of the devices or aids mentioned in this section are allowable expenses, the Department recommends that States restrict the use of administrative funds to aids or devices without which breastfeeding for particular participants would be overly difficult, *e.g.*, breastshells, nursing supplementers, and breastpumps.

To implement this legislative mandate, a new § 246.14(c)(10), which includes "breastfeeding aids" among allowable administrative costs, would be added to program regulations.

Section 4.b. of this preamble discusses implementation of provisions in Public Law 101–147 that require State agencies to explain in their State Plans how they will promote breastfeeding and coordinate WIC operations with local programs for breastfeeding promotion.

3. Adjunct, or Automatic WIC Income Eligibility (§§ 246.2 and 246.7(d))

Section 123(a)(2) of Public Law 101–147 amends section 17(d)(2)(A) of the CNA of 1966 to grant adjunct (*i.e.*, automatic) WIC income eligibility to recipients of food stamps and assistance under AFDC and Medicaid, as well as members of families which contain an AFDC recipient or which contain a pregnant woman or infant receiving Medicaid. Adjunctive income eligibility for fully eligible recipients of food stamps and assistance under Medicaid and AFDC was established in a final rule published on February 1, 1990 at 55 FR 3385 which amends § 246.7(c) of WIC regulations. Before discussing how this proposed rulemaking would complete implementation of the adjunct eligibility mandates of the statute, several facts regarding adjunct eligibility should be made clear. First, it provides only automatic income eligibility. Persons who are income-eligible for WIC must also be categorically eligible and at nutritional risk before they can enroll in the program. Second, adjunct income eligibility for WIC is available only to recipients of food stamps and assistance under AFDC and Medicaid who actually meet the Federal eligibility requirements of these programs. For example, the income limit for pregnant women and infants which States may choose under Medicaid is 185 percent of Federal Poverty Income Guidelines. However, some States have chosen to extend program benefits to this participant category beyond the Federal limit, up to, for example, 200 percent of poverty, funding such services entirely with State monies. Even if such women receive the same services as Medicaid participants under the same program name, these pregnant women with incomes in excess of 185 percent of poverty are not adjunctively income eligible for WIC. Finally, the relationship between program reporting requirements and the adjunct income eligibility mandates must be clarified.

Section 343 of Public Law 99–500 and 99–591, enacted in 1986, added a new section 17(d)(4) to the CNA of 1966 requiring the Department to "report biennially to Congress on * * * the income and nutritional risk characteristics of participants in the program." Accordingly, § 246.25(b)(3) of WIC regulations requires that State and local agencies provide such information as the Food and Nutrition Service may require for the purpose of developing its report to Congress, including "information on income and nutritional risk characteristics of participants." Accurate reporting on the income of participants requires that income information be gathered from all participants during the designated reporting month every other year, including those who establish adjunct income eligibility for WIC based on AFDC, Medicaid, or Food Stamp Program eligibility. While family size and income information must be secured from adjunctively eligible persons during the designated reporting month, local agencies cannot use this information to make independent income eligibility determinations which could render such persons ineligible for the WIC Program.

a. Adjunct Income Eligibility for Members of Food Stamp Program Households (i.e., Food Stamp "Recipients") and for Members of Families That Contain an AFDC Recipient or a Pregnant Woman or Infant Receiving Assistance Under Medicaid (§§ 246.2 and 246.7(d)(2)(vii))

The legislation accords adjunct income eligibility for WIC to members of families receiving AFDC and members of families in which a pregnant woman or infant receives Medicaid, as well as to the recipients themselves. This legislative provision focuses on the family unit rather than the individual. Consider, for example, a family unit with an income of 150 percent of Federal Poverty Income Guidelines which includes a pregnant woman and a 2-year-old child. In a State which employs the maximum Medicaid income limit of 185 percent for pregnant women and infants, the pregnant woman would be eligible for Medicaid and, therefore, adjunctively income eligible for WIC. However, the child would not be eligible for Medicaid, given the 133-percent maximum which Medicaid applies, with rare exceptions, to this participant category. By including family members in adjunct WIC income eligibility, Public Law 101–147 grants WIC adjunct eligibility to the child, as well as its mother. Congress intended adjunct income eligibility provisions to facilitate closer coordination between WIC and these other programs so that more comprehensive and timely benefits could be provided to eligible women, infants and children through streamlined administrative procedures. The Department must exercise discretion to implement the "family" aspect of adjunct eligibility in a manner which serves these intentions.

The legislation also makes Food Stamp recipients adjunctively income eligible for WIC. Congress apparently did not apply the "family" aspect of adjunct eligibility to the Food Stamp Program because eligibility for food stamps is determined on a household basis, making every household member a "recipient." However, this renders the concept of food stamp "recipient" definable only in terms of membership in a food stamp "household." Therefore, although Public Law 101–147 does not explicitly include the issue of food stamp household membership, as it does membership in families including an AFDC recipient or a pregnant woman or infant receiving Medicaid, the Department believes that the rulemaking must address all of these issues. Furthermore, as the following discussion will make clear, these issues are addressed identically in the proposal in order to achieve the program streamlining and coordination that Congress intended.

AFDC and Medicaid approach the concept of "family" in a significantly different manner from each other and from WIC. The concept of "household" in the Food Stamp Program differs, in turn, from the concept of "family" in all of these programs. Section 246.2 of WIC regulations defines "family" as "a group of related or nonrelated individuals who are living together as one economic unit, except that residents of a homeless facility or an institution shall not be considered as members of a single family." FNS Instruction 803–3, Rev. 1, April 1, 1988, elucidates the regulatory definition. People are considered to be members of a single family, or economic unit, when their "production of income and consumption of goods and services are related." In contrast, the AFDC and Medicaid "families"—referred to in these programs as "budget units" or "filing units"—may be composed exclusively of persons directly receiving the program benefit or may include recipients and others. Additional persons who contribute to the economic unit may be excluded from consideration in these programs because they are not related to the applicant by blood, marriage, or some other form of legal relationship.

One option for implementing adjunct income eligibility in WIC for members of "families" that contain a Medicaid recipient, for example, would be to employ the Medicaid concept of "family." The equivalent concepts in the Food Stamp Program and AFDC would be used in each of these programs as well. The concept of "family" in each of these programs would, under this option, be applied to determine which persons in addition to the recipients of benefits in AFDC and Medicaid are adjunctively eligible, and which persons gain adjunctive eligibility by being members of the food stamp households and, as such, being food stamp recipients. However, the use of the equivalents of "family" in AFDC and Medicaid, and of "household" in the Food Stamp Program, for purposes of determining adjunct income eligibility in WIC would require either that (1) the WIC applicant obtain information on what persons are considered to be family members from AFDC, Medicaid, or the Food Stamp Program and present this information to the WIC Program; (2) that WIC authorities be charged with the responsibility for obtaining such information from these other programs; or (3) that WIC staff master the complex eligibility determination procedures of these programs so that, working with the WIC applicant, they can, independent of the other programs, reestablish the composition of the applicant's AFDC, Medicaid, or Food Stamp Program "family" for WIC purposes. These alternatives would impose significant unnecessary burdens on the applicant and/or the programs involved. Such procedures would increase the administrative complexity of the programs and retard the delivery of benefits to participants, and would, therefore, be in direct opposition to the Congressional intent that the programs be better coordinated so as to provide more timely and comprehensive services to women, infants, and children.

Therefore, the Department proposes to use a definition of "family" that would not require these other programs to report information to WIC authorities, would not require the WIC applicant to secure information from these programs, and would require only a minimal additional effort during the WIC eligibility determination process. The current definition of "family" in § 246.2 would be revised to provide that, for purposes of determining WIC adjunct income eligibility only, "family" would be defined as persons living together, except that residents of an institution could not be considered members of a single family. WIC program authorities could easily apply this definition to the families of applicants who are already participating in AFDC or Medicaid and to members of Food Stamp Program households when they apply for WIC. Furthermore, the Department believes that this definition would include all persons who would be encompassed by the AFDC, Medicaid, and Food Stamp Program concepts of "family." Commenters are invited to scrutinize this definition carefully and to address any problems they might foresee relative to its implementation.

As indicated above, this definition would apply only to adjunct income eligibility determinations, and not to WIC applicants who are not members of families that include a participant in these other programs. The current WIC Program definition of "family" would apply to all income eligibility determinations for applicants who are not subject to adjunct income eligibility and must, therefore, undergo an independent WIC income eligibility determination.

In addition to revising the definition of "family," the Department proposes, in accordance with the mandate of Public Law 101–147, to revise § 246.7(d)(2)(vii) of regulations so that it confers adjunct

WIC income eligibility on persons who document that they are members of families that contain an AFDC recipient or that contain a pregnant woman or infant receiving assistance under Medicaid.

b. Adjunct Income Eligibility for Presumptive Eligible Recipients of Assistance Under AFDC and Medicaid (§§ 246.7(d)(2)(vii) and 246.7(h)(1))

Adjunctive income eligibility for fully eligible recipients of food stamps and assistance under AFDC and Medicaid was established in a final rule published on February 1, 1990 at 55 FR 3385 which amended § 246.7(d)(2)(vii) of WIC regulations. That rulemaking did not grant adjunct income eligibility to "presumptively," or provisionally, eligible recipients of AFDC or Medicaid who apply for WIC. (No equivalent presumptive eligibility provision exists in the Food Stamp Program.) Presumptive eligibility essentially entails granting full benefits to all eligible recipient categories in AFDC and limited benefits to pregnant women in Medicaid based on their categorical eligibility before they have completed the application process and have been determined fully eligible. Such recipients are subsequently removed from the programs if they are determined to be ineligible once the application process has been completed. Presumptive eligibility was not addressed in the February 1, 1990 rulemaking because the Department needed first to gather more information about the meaning and implications of presumptive eligibility in these programs. This was necessary in order to address the issue of how to treat persons who gained WIC income eligibility based on presumptive participation in AFDC or Medicaid and were enrolled in WIC only to be subsequently determined ineligible for AFDC or Medicaid.

Congress clearly intended through adjunct income eligibility to streamline and simplify the WIC application process, as well as to more closely coordinate WIC and the other specified programs to the benefit of women, infants and children. In determining how to address presumptive eligibility, the Department considered this intent to be the decisive factor. Currently, WIC local agencies are required to make only one WIC income eligibility determination during a certification period. The standard certification period is 6 months, though pregnant women may be certified for the term of their pregnancy and up to 6 weeks postpartum, and infants may be certified for a period extending to their first birthday. State agencies are required under current WIC policy to reassess a participant's income eligibility before the end of a certification period only if the participant reports a change in income. If, through some other medium, for example, a third-party contact, the State agency develops reason to believe that a participant may no longer be income-eligible, prudent management would dictate the need to conduct a reassessment. However, the local agency is not required to redetermine income eligibility during a certification period in any other circumstance. Of course, when the State agency does conduct a reassessment of income eligibility before the end of a certification period and finds that the participant is no longer eligible, the participant must be disqualified. These procedures are appropriate because WIC provides short-term treatment and preventive nutritional intervention to persons during critical stages of growth and development. To be effective in this regard, the program must have a minimum benefit period which is sufficient to address whatever nutritional conditions gave rise to program eligibility in the first place. A standard procedure calling for one income eligibility determination per certification period generally ensures an adequate intervention.

Although, as indicated above, presumptively eligible AFDC and Medicaid recipients may prove to be ineligible for these programs, in actual practice, such persons characteristically prove to be fully eligible upon completion of the eligibility determination process. This is not, therefore, a frequent cause of persons ceasing to receive benefits under these programs after relatively brief periods of participation, and it is by no means the only cause of early termination. Individuals may cease to participate in AFDC, Medicaid, or the Food Stamp Program at any time during a WIC certification period because these programs, for the most part, reassess eligibility more frequently than the WIC Program. Furthermore, persons may cease to receive benefits under these programs for reasons entirely unrelated to changes in their income, *e.g.*, an AFDC recipient who neglects to submit the required monthly reporting form may be terminated from the program. Even when persons cease to receive benefits under these programs because of increases in their income, the possibility remains that they may still meet WIC income eligibility guidelines.

As discussed above, there are a variety of reasons why persons may cease participation in one or more adjunct benefit programs. Some of these reasons may affect WIC eligibility, while others may not. Were the Department to require WIC local agencies to respond to each instance, the agencies would need to shift from a system in which, with rare exceptions, WIC income eligibility is assessed only once during each certification period to a system in which the income eligibility for a large segment of the participant population must be tracked constantly. This would impose an unacceptable additional administrative burden on WIC clinics which would, in turn, decrease the number of participants they can serve and diminish the timeliness and quality of services they provide to participants. Such an outcome would flatly contradict a central purpose of Congress in establishing adjunct income eligibility for WIC: to more closely coordinate WIC and other programs that serve low-income women, infants and children through streamlined administrative procedures.

Therefore, the Department proposes to allow State agencies to confer adjunct income eligibility for the entire WIC certification period to persons who, at the time of application for WIC, are either recipients of food stamps, Medicaid, or AFDC, or members of families which contain an AFDC or Medicaid recipient. This approach, which is consistent with current program practice of one income eligibility determination per certification period, would require that a statement be added to § 246.7(h)(1) to the effect that the State agency need not, during a certification period, reassess the income eligibility of a person who has been enrolled in WIC based on adjunct income eligibility.

4. State Plan Requirements (§ 246.4(a))

a. Enhanced Outreach

Research on the medical impact of the WIC Program demonstrates that WIC has its greatest effects on pregnancy outcomes when a pregnant woman begins receiving WIC benefits at least six months before she gives birth. In recognition of the importance of enrolling women in WIC as early in their pregnancy as possible, section 123(a)(4)(A)(ii) of Public Law 101-147 amends section 17(f)(1)(C)(vii) of the CNA of 1966 to require that the State agency's outreach plan have "emphasis on reaching and enrolling eligible women in the early months of pregnancy, including provisions to reach and enroll eligible migrants." This legislation adds an emphasis on

outreach and also specifically refers to migrants as a target population. Therefore, § 246.4(a)(7) of the current WIC program regulations would be revised to require a description in the State plan of how the State intends to emphasize contacting and enrolling eligible women in the early months of pregnancy and migrants through its outreach efforts.

b. Plans To Promote Breastfeeding

Section 123(a)(4)(A)(i) of Public Law 101–147 amends section 17(f)(1)(C)(iii) of the CNA of 1966 to require that State plans include a plan to coordinate WIC operations with "local programs for breastfeeding promotion." Since coordination between WIC and other programs is already covered in § 246.4(a)(8) of program regulations, this paragraph would simply be modified to include breastfeeding promotion.

Section 123(a)(4)(A)(iv) of Public Law 101–147 amends section 17(f)(1)(C)(xi) of the CNA of 1966 to require that the State agency describe in its State plan the manner in which it intends to provide nutrition education "and promote breastfeeding." Nutrition education goals and action plans are currently addressed in § 246.4(a)(9). WIC Program regulations (§ 246.11(e)(1)) have long required State and local agencies to encourage all pregnant participants to breastfeed unless contraindicated for health reasons. The breastfeeding promotion and support provisions of Public Law 101–147 therefore serve to reinforce and intensify efforts by WIC Program staff to encourage breastfeeding.

c. WIC Benefits for Foster Children

Section 123(a)(4)(A)(ii) of Public Law 101–147 would add a new paragraph (viii) to section 17(f)(1)(C) of the CNA of 1966, requiring State agencies to describe in their State plans how they will provide program benefits "to infants and children under the care of foster parents, protective services, or child welfare authorities, including infants exposed to drugs perinatally." Accordingly, a new § 246.4(a)(20) would be added to implement this legislative mandate.

d. Improved Access for Employed Persons and Rural-Area Residents and Alternate Means of Issuing Food Instruments

Most local WIC clinics are located where WIC participants are concentrated within their service delivery areas, and are organized to take and process WIC applications during "normal" business hours, *i.e.*, 8:30 a.m. to 5:00 p.m., or thereabouts. This may pose problems for WIC applicants and participants who are employed and cannot always take time off from their jobs long enough to complete the application/certification process or participate in nutrition education activities, and for applicants and participants who reside in rural areas which may be a considerable distance away from the nearest WIC local agency or clinic. Similar problems are encountered by these two groups of participants when they need to make subsequent trips to the local WIC office to pick up their food instruments.

Section 123(a)(4)(A)(iv) of Public Law 101–147 focuses attention on this issue by adding a new section 17(f)(1)(C)(x) to the CNA of 1966 requiring State agencies to describe in their State plans how they will "improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas, by addressing their special needs through the adoption or revision of procedures and practices to minimize the time participants and applicants must spend away from work and the distances that participants and applicants must travel, including appointment scheduling, adjustment of clinic hours, clinic locations, or mailing of multiple vouchers." A new § 246.4(a)(21) would be added to § 246.4(a) of program regulations to implement this mandate.

It should be noted that the State plan requirement involving improved program access for employed applicants and residents of rural areas is fairly flexible. In contrast, section 123(a)(4)(F) of Public Law 101–147 mandates appointment scheduling for WIC participants/applicants who are employed. This requirement is discussed in greater detail in § 4.e. of this preamble. The legislation (section 213(a)(2)(A)(ii)) also allows State agencies to mail WIC food instruments, under certain conditions. Implementation of the latter provision, which also requires a conforming plan amendment in the new § 246.4(a)(21), is discussed in § 6 of this preamble.

As discussed in section 11 of this preamble, § 246.12(r)(8) of the proposed rule would authorize State agencies to issue food instruments to participants through means other than direct participant pick-up. In accordance with the mandate of Public Law 101–147, this authority would be limited to specific circumstances and could be exercised only if it does not, in the Department's judgment, pose a significant threat to the integrity of the program, including both the quality of program services and fiscal accountability. If the State agency chooses to issue food instruments through alternate means, it would be required (§ 246.4(a)(21)) to describe in its State Plan its issuance system(s) and what measures it will adopt to ensure the integrity of program services and fiscal accountability.

e. Conforming Amendments

Section 246.24(a) of this proposal would implement Federal requirements concerning debarment and suspension procedures in order to protect the integrity of nonprocurement programs funded by the Federal Government and procurement contracts over $25,000 at the grantee and subgrantee levels. This requirement is discussed in section 13 of the preamble. A conforming amendment (§ 246.4(a)(22)) would require that State agencies provide an assurance of compliance in their State Plans. Also discussed in section 13 of the preamble is a proposed requirement that State agencies maintain a drug-free workplace. This requirement would be implemented in § 246.4(a)(23) of this proposed rule. Finally, as discussed in section 8 of the preamble, certain State agencies would be permitted to implement WIC income eligibility guidelines at the same time as Medicaid guidelines, but not later than July 1 of each year (§ 246.7(d)(1) (iii)–(iv)). State agencies choosing to implement this option would be required (§ 246.4(a)(24)) to so indicate in their State Plans.

5. Local Program Coordination With Hospitals (§ 246.6(f))

A number of local agencies operate the WIC Program within a hospital, or have cooperative agreements with an area hospital to certify WIC applicants. Such arrangements enable newborn infants at nutritional risk to begin receiving WIC benefits from the earliest possible date, and facilitate enrollment of at-risk mothers who may not have been eligible as pregnant women (*e.g.*, because they did not meet income limits before the increase in family size) as breastfeeding or postpartum women immediately after the birth of their child. Section 123(a)(4)(B) of Public Law 101–147 capitalizes on existent local agency/hospital WIC relationships by adding a new section 17(f)(8)(D) to the CNA of 1966 to require each local agency which either operates a WIC program within a hospital or has a cooperative agreement with one or more hospitals to "advise potentially eligible individuals that receive inpatient or outpatient prenatal, maternity, or postpartum services, or accompany a child under the age of 5 who receives well-child services, of the availability of Program benefits." The

legislation also requires that local agencies, "to the extent feasible, provide an opportunity for individuals who may be eligible to be certified within the hospital for participation in the program." Under § 246.6(f), a local agency which has such an arrangement with a hospital would be required to enter into an agreement with the hospital incorporating the provisions of the legislative mandate. This agreement would, in turn, be appended to the State agency's agreement with the local agency. No requirement exists for local WIC agencies which do not operate the program in a hospital or through a cooperative agreement with a hospital to establish such an arrangement. The Department acknowledges, however, that hospitals provide excellent opportunities for WIC Program outreach efforts and streamlined certification procedures, as well as direct linkage between the program and primary health care services. State agencies are, therefore, encouraged to pursue program coordination with hospitals.

6. Referral and Access (§ 246.7(b))

In response to mandates of Public Law 101–147 which place increased emphasis on improving access to the WIC program and referrals to other health-related or public assistance programs, a new paragraph (b) would be added to § 246.7, "Certification of participants." The specific proposed requirements regarding improved program access and referral are discussed in detail below.

a. Providing Written Information on Other Programs to WIC Applicants/ Participants

Section 123(a)(3)(D) of Public Law 101–147 adds a new section 17(e)(3)(A) to the CNA of 1966 which requires State agencies to "ensure that written information concerning food stamps, the program for aid to families with dependent children under part A of title IV of the Social Security Act, and the child support enforcement program under part D of title IV of the Social Security Act is provided on at least 1 occasion to each adult participant in and each applicant for the program." This mandate would be implemented in a new § 246.7(b)(1). A statement of explanation agreed on by the House and Senate to accompany H.R. 24 makes it clear that this requirement can be satisfied by providing a fact sheet which contains basic information about these programs and the addresses and phone numbers of local offices where low-income families can apply (*Congressional Record,* October 10, 1989, H6863). The local agency would not be required to provide this information more than once per certification period or application submission either to any individual participant or applicant, or to the adult caretaker/guardian of an infant or child for whom application is being made. Congress did not intend, and this rulemaking would not, therefore, require, that WIC agencies be required to document in each WIC participant's or applicant's file that the fact sheet was handed out, as this would unnecessarily increase paperwork burdens for local WIC agency staff.

b. Referrals to Medicaid

Section 123(a)(3)(D) of Public Law 101–147 adds a new section 17(e)(3)(B) to the CNA of 1966 requiring State agencies to "provide each local WIC agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 5 under the medical assistance program established under title XIX of the Social Security Act (in this section referred to as the 'Medicaid program')." A new section 17(e)(3)(C) is added to the CNA by the same section of Public Law 101–147 to require that local agencies, in turn, "provide to individuals applying for the program under this section, or reapplying at the end of their certification period, written information about the Medicaid program and referral to such program or to entities authorized to determine presumptive eligibility for such program, if such individuals are not participating in such program and appear to have family income below the applicable maximum income limits for the program." The joint statement of explanation accompanying H.R. 24 further supports this requirement by directing State agencies to provide local agencies with "the information necessary to conduct such referrals, including * * * the appropriate agency where the participant or applicant could apply for Medicaid" (*Congressional Record,* October 10, 1989, H6863). The Medicaid referral provision would be implemented in the new § 246.7(b)(2). As in the case of the Food Stamp Program, AFDC, or Child Support Enforcement referrals, it is not necessary for such referrals to be documented in each individual's WIC file. However, the Department encourages local agencies to follow through with participants on referrals and generally to maintain close coordination with health care services.

c. Referrals to Other Food Assistance Programs When WIC is Fully Enrolled

Section 123(a)(4)(F) of Public Law 101–147 adds a new paragraph 17(f)(19) to the CNA of 1966 which requires each local agency to "provide information about other potential sources of food assistance in the local area to individuals who apply in person to participate in the program under this section, but who cannot be served because the program is operating at capacity in the local area." Such potential sources of food assistance would include, but are not limited to, food banks, food pantries, and soup kitchens which provide emergency immediate food assistance, as well as more structured food assistance programs such as the Food Stamp Program, the Commodity Supplemental Food Program where available, the Temporary Emergency Food Assistance Program (TEFAP), Meals on Wheels, and/or the Food Distribution Program on Indian Reservations (FDPIR), as appropriate. Information and referrals provided under this section need not be documented in participant files. This provision would be implemented through the addition of a new § 246.7(b)(3) to program regulations.

d. Scheduled Appointments for Employed Participants and Applicants

Most local agencies utilize an appointment system for the WIC application/certification process. However, in some local agencies, particularly the smaller ones, persons wishing to apply for WIC are seen on a first-come, first-served basis. This type of intake system creates a particular hardship for the employed applicant or participant who must take time off from work in order to be certified for WIC, and may be required to wait a long time for service at the clinic if a number of clients are in line ahead of her. In order to facilitate participation of working families in WIC, section 123(a)(4)(F) of Public Law 101–147 adds a new section 17(f)(20)(B) to the CNA of 1966 requiring local agencies that do not routinely schedule certification appointments to "schedule appointments for each employed individual seeking to apply or be recertified for participation in such program so as to minimize the time each such individual is absent from the workplace due to such application or request for recertification." The requirement to schedule appointments for employed WIC applicants/ participants would be implemented through the addition of a new § 246.7(b)(4). (Program regulations do not make a distinction between a participant's initial WIC certification and any subsequent certifications. Therefore, the term "recertification" used in the law would be superfluous in

the regulations.) While the law does not require that employed persons also be given appointments for nutrition education and voucher pick-up, the Department encourages this practice.

7. Contacting Pregnant Women Who Miss Certification Appointments (§ 246.7(b)(5))

Section 123(a)(4)(F) of Public Law 101-147 adds a new section 17(f)(20)(A) to the CNA of 1966 requiring the State agency to adopt a policy that would "require each local agency to attempt to contact each pregnant woman who misses an appointment to apply for participation in the program, in order to reschedule the appointment, unless the phone number and the address of the woman are unavailable to such local agency."

The statement of explanation agreed upon by the House and Senate which accompanied H.R. 24 provides specific guidance regarding how this mandate should be implemented. First, Congress did not envision that compliance would entail "elaborate efforts" by the local agency; rather, "a brief phone call or the mailing of a post card would suffice" (*Congressional Record,* October 10, 1989, H6863). Second, although the legislation does not require that an effort be made to contact the pregnant woman who has missed an appointment if the local agency lacks her address and phone number, Congress expressed the view that "local agencies should get her phone number (and/or the address) when a pregnant woman makes an appointment. This should become a routine part of making appointments for pregnant women, * * * [if it] * * * is not already" (*Congressional Record,* October 10, 1989, H6863). The Department believes that this is, in fact, standard practice at most local agencies.

In commenting on this provision as introduced in S. 1484, Senator Leahy indicated that it "applies at the initial certification interview only. It does not apply to missed appointments for picking up WIC vouchers or to missed appointments at recertification" (*Congressional Record,* August 3, 1989, S10018).

Pursuant to the direction of Congress that follow-up contacts be made, but that the process not be labor-intensive, the Department proposes to require that the local agency make one contact, either by telephone or by mail, with each pregnant woman who has missed her first appointment for certification. If the contact is made by telephone, the local agency could at the same time establish a second appointment. If the contact is made by mail, the local agency would not be expected in the postcard or letter to provide a second appointment. Rather, the woman would be asked in that communication to contact the local agency either by telephone or, at her discretion, in person, in order to arrange for a second appointment. It would not be an efficient use of limited local agency resources unilaterally to reserve time for a second appointment without some assurance that the woman is still interested in applying for WIC and can be present at the designated time, especially in view of the fact that the woman has already failed to attend a previous appointment. The local agency would have fulfilled its obligation under this provision after it had contacted the woman and, at her request, provided a second certification appointment. If the woman does not respond to a written request that she contact the local agency to arrange a second appointment, responds to a telephone or written contact by saying that she is no longer interested in applying for WIC, or arranges for, and fails to attend, a second appointment, the local agency would not be required to take further action.

In order that this requirement be meaningfully implemented, the Department is proposing that local agencies be required to obtain each pregnant woman's address and telephone number when she calls or comes into the local agency to make an appointment for WIC certification. Without this requirement, it would be difficult for local agencies to conduct the Congressionally mandated follow-up with pregnant women who miss their first certification appointments, and the Congressional intent of promoting early program intervention for these women would be thwarted. If there is sufficient lead time between the day that the first contact to schedule the appointment is made and the actual date of the appointment, and if the resources are available to do so, the local agency may wish to send out a reminder notice *prior to* the certification appointment. Such a precaution could reduce the number of missed initial appointments requiring follow-up action.

The follow-up requirements for pregnant women who miss their initial certification appointments would be addressed in a new § 246.7(b)(6). Commenters are encouraged to suggest alternative procedures which would comply with the legislative mandates and Congressional intent while minimizing the administrative burden on the local WIC agency.

8. Concurrent Implementation of WIC and Medicaid Income Eligibility Guidelines. (§ 246.7(d)(1)(iii)-(iv))

Section 123(a)(4)(F) of Public Law 101-147 adds a new section 17(f)(18) to the CNA of 1966 providing that "a State agency may implement income eligibility guidelines under this section at the time the State implements income eligibility guidelines under the medicaid program," except that WIC guidelines "shall be implemented not later than July 1 of each year." However, section 17(d)(2)(A) provides that an individual is income-eligible for WIC only if he or she is a member of a family with an income that is less than the income limit for free and reduced-price meals established in section 9(b) of the National School Lunch Act. This limit is equal to 185 percent of the Federal Poverty Income Guidelines and is adjusted each July 1. In order to avoid conflict with this requirement, this provision may be implemented only by those State agencies with WIC income guidelines that, having been adjusted to reflect changes in the Federal Poverty Income Guidelines before July 1, would not exceed the free and reduced-price income limit which is in effect at the time the adjustment is made. That is, the provision would apply only to State agencies with WIC income eligibility guidelines sufficiently below 185 percent of the Federal Poverty Income Guidelines that after adjustment they would not exceed the free and reduced-price limit. While Congress may have intended the new section 17(f)(8) to apply to all States, as written, the provision clearly does not override the requirement of section 17(d)(2)(A). Thus, the Department has determined, based on advice from the Office of the General Counsel, that unless a statutory amendment is made, implementation of this provision must be limited as discussed above. Section 246.7(d)(1)(iii) of regulations would be amended accordingly, and a new § 246.7(d)(1)(iv) would be added.

Implementation of this coordination option would have a potential advantage only for applicants not covered by the adjunct, or automatic, income eligibility provisions discussed in section 3 of this preamble. Furthermore, simultaneous implementation of WIC and Medicaid guidelines would not significantly facilitate interprogram coordination unless the income eligibility requirements for WIC and Medicaid were identical.

It should also be noted that Medicaid income eligibility guidelines can be

implemented retroactively. This means that the program can cover allowable medical costs incurred at any time during the quarter in which the State announced its adjusted Medicaid income eligibility guidelines, provided that the person who incurred the costs would have been eligibile during that quarter under the adjusted guidelines. In contrast, WIC guidelines cannot be implemented retroactively. Unlike Medicaid, which is essentially a system for reimbursing providers after the fact for services rendered to participants, the WIC Program provides benefits directly and prospectively. Therefore, State agencies would not be able to make WIC guidelines retroactively effective in order to coordinate with Medicaid.

Thus, the State agency would be provided with two distinct options. The first option would be coordination with Medicaid. The State Medicaid Program may choose to announce Medicaid guidelines (1) with a retroactive effective date, (2) with an effective date the same as the announcement date, or (3) with an effective date after the announcement date. The WIC State agency could make its guidelines effective on the same date as the Medicaid guidelines in the second and third situations. However, in the first situation, WIC guidelines would have to become effective on the date of the Medicaid announcement because they cannot share the retroactive Medicaid effective date. As mentioned above, the statute clearly indicates that WIC guidelines cannot be updated later than July 1 of each year, *i.e.*, that the State agency cannot postpone implementation of the new WIC guidelines until after July 1 for the purpose of coordinating guideline updates with Medicaid. Therefore, the State agency's second option would be to implement new WIC guidelines effective July 1. The State agency could not, independent of Medicaid guidelines, implement new WIC guidelines prior to July 1.

9. Prior Notification to Participants for Termination Due to Funding Shortages (§ 246.7(h)(2))

Section 246.7(g)(2) in current regulations (redesignated § 246.7(h)(2) in this rulemaking) permits a State agency to discontinue program benefits to certified participants in the event that it experiences funding shortages which would warrant taking such action. Since such a step would constitute an adverse action against a participant, section 123(a)(4)(C)(ii) of Public Law 101–147 adds a new section 17(f)(9)(B) to the CNA of 1966 requiring State agencies in this situation to first issue a notice to affected participants identifying "the categories of participants whose benefits are being suspended or terminated due to the shortage." This requirement would be added as § 246.7(j)(9). State agencies would be able to define "categories" in a variety of ways given the alternative methods available to them to achieve the necessary reduction in costs through mid-certification disqualifications. Current regulations require State agencies to provide 15 days advance notification of disqualification. To maintain consistency with the statutory language, the first sentence of redesignated § 246.7(j)(6) (formerly § 246.7(i)(6)) would be revised to indicate that 15 days advance notice must be given in cases of suspension, as well as disqualification. As discussed above, local agencies would be required to provide referrals to other food assistance programs when their caseloads are full. State agencies may wish to advise their local agencies to provide similar referrals to WIC participants who are disqualified or suspended due to a funding shortage.

10. Documentation of Nutrition Education in a Master File (§ 246.11(e)(4))

Nutrition education has always been an integral component of the WIC Program. Any nutrition education provided to WIC participants has always been required by regulations to be documented in each WIC participant's casefile. However, many nutrition education activities, especially those directed toward children or involving considerable dialogue (such as food preparation demonstrations), lend themselves to group activities. In such cases, individual casefile documentation becomes an administrative hardship for the local agency staff. Therefore, section 213(a)(1) of Public Law 101–147 adds a new section 17(e)(5) to the CNA of 1966 which alleviates this paperwork requirement by allowing local agencies to "use a master file to document and monitor the provision of nutrition education services (other than the initial provision of such services) to individuals that are required, under standards prescribed by the Secretary, to be included by the agency in group nutrition education classes." The law applies the master file documentation option to nutritional education contacts, after the first such contact during a certification period, which are provided, per Departmental mandate, to persons in groups. However, because of the wide variety of both the nutrition education services that can be provided to WIC participants and the techniques and strategies appropriate for providing these various services, the Department does not dictate terms and conditions under which subsequent nutrition education contacts must be provided in a group setting. Therefore, § 246.11(e)(4) would implement the legislative requirement by permitting nutrition education contacts, except for initial contacts, to be documented in a participant master file when such contacts are provided to groups. The Department believes that clinics should maintain accurate information about nutrition education services made available to, and accepted by, participants.

11. Alternatives to Participant Pick-Up for Issuance of WIC Food Instruments (§§ 246.7(f)(2)(iv), 246.7(h)(1)(ii) and 246.12(r)(8))

Section 213(a)(2)(A)(ii) of Public Law 101–147 adds a new section 17(f)(7)(B) to the Child Nutrition Act of 1966 allowing States to provide for the delivery of WIC food instruments "to any participant who is not scheduled for nutrition education counseling or a recertification interview through means, such as mailing, that do not require the participant to travel to the local agency to obtain the food instruments." States which adopt such alternative-issuance procedures are required to describe them in their State plans. FNS may disapprove State plan amendments describing a State's proposed alternative issuance procedures Statewide or in a specific area within a State only if such issuance "would pose a significant threat to the integrity of the program".

By including the alternative-issuance provision in Public Law 101–147, Congress intended to broaden the authority of State agencies to allow food instruments to be issued through alternative means to participants. The statute allows State agencies to streamline the operation and administration of the WIC Program in a number of ways. First of all, a major barrier to participation is eliminated for working participants and those who live in remote, rural areas. Problems of convenience, transportation, and accessibility to the local agency which can be addressed by mailing some of the food instruments to these individuals. Second, mail issuance can significantly alleviate clinic congestion and keep participants as well as applicants from having to wait for long periods of time at local agencies. Third, local agency staffs are freed by mail issuance to spend more time on certification and nutrition education activities, including high-risk contacts.

However, as indicated above, Congress imposed certain restrictions on the issuance of food instruments through alternative means. First, the method may not, in the judgment of the Department, pose a significant threat to the integrity of the program. The concept of program integrity encompasses both the quality and coordination of the full range of program services—supplemental foods, nutrition education, and health care referrals—and fiscal accountability. Congress specifically stressed the former aspect of program integrity by stipulating that food instruments may not be mailed to participants who are scheduled for a certification interview or for a nutrition education contact. Prohibiting alternate issuance methods at the time of program certification is consistent with the need to see applicants when they enter the program in order to provide whatever referrals might be appropriate and to otherwise ensure timely integration into the health care system with which WIC is coordinated. Requiring direct pick-up when nutrition education is scheduled very significantly increases the chances that the participant will participate in nutrition education activities. The Department would carefully review all proposals to issue food instruments by alternative means in order to further ensure that they will not erode the quality or scope of program services.

Under current regulations (§ 246.12(s)(8) (i)–(ii)), local agencies may, in accordance with guidelines established by the State agency, mail food instruments to individual participants in specific circumstances which make direct pick-up infeasible, *e.g.*, illness or imminent childbirth. The State agency can also establish guidelines to permit the mailing of food instruments on an area wide basis in response to temporary conditions, *e.g.*, inclement weather or damage to a bridge that is a critical transportation link. The legislative mandate is consistent with this authority. In such circumstances, certification appointments and nutrition education can be rescheduled in order to accommodate the need to mail food instruments.

The statutory provision also conveys the concern of Congress that program accountability not be jeopardized through implementation of alternate means of food instrument issuance. Therefore, this provision in no way reduces the State and local agency's responsibility to ensure accountability for issuance and receipt of food instruments, as required by § 246.12(1) of current regulations. State agencies which opt to distribute food instruments by mail would be expected to ensure that the food instruments do, in fact, reach the intended persons. Mailing by certified mail, return receipt requested, provides one such method. Commenters are asked to suggest other means of ensuring accountability in instrument mailing systems which could be shared as guidance in the preamble to the final rule.

While alternate means of distribution present certain advantages of convenience for participants and local agencies, these same advantages can be achieved through modifications of the participant pick-up system. Section 246.12(r)(7) of current regulations permits State agencies to give the participant up to three-month supply of food instruments at one time. Thus through this multiple-issuance strategy, States can reduce to two the number of times the participant must visit the WIC local agency during the standard six-month certification period. The new statutory provision regarding alternative means of distribution would permit no further reduction in the required number of personal appearances per certification period. It should also be noted that, when mailing food instruments, the State can no longer easily identify non-participation by observing which participants fail to pick up their food instruments. In order to monitor non-participation, the State agency instead would need to trace food instruments not redeemed back to participant files. Non-redemption of food instruments for a number of consecutive months would be identified through a revision to § 246.7(h)(1)(ii) as a form of participant abuse which could lead to disqualification.

In any event, the Department would not recommend that State agencies reduce the participant's frequency of visits to the local agency merely for reasons of local agency convenience, independent of consideration for the quality of service to participants. Furthermore, State agencies which do decide to mail food instruments should also consider which groups of participants are most in need of this service and least in need of regular direct contact with WIC staff. For example, mailing might be appropriate for participants in a sparsely populated rural area where they must travel great distances to reach their WIC clinic, and for working families. Mailing might be less appropriate for pregnant women, for whom constant interface with clinic staff—and the health care system which may be on WIC clinic premises—can contribute significantly to positive pregnancy outcomes. In the final analysis, State agencies must weigh the benefits of participant convenience and reduced administrative burden against the benefit of frequent contact with participants and the goal of balanced, coordinated delivery of services, which is facilitated through such contact. Furthermore, this assessment should take place with respect to individual local agency service areas and groups of participants. State agencies which follow this assessment procedure would not be likely to establish a policy of mailing food instruments to all participants statewide.

The Department proposes to implement the mandate by revising § 246.12(r)(8) so as to authorize State agencies to decide which, if any, of their local agencies and/or groups of participants should receive food instruments through means other than direct pick-up, provided that direct pick-up must be required at the time of certification and whenever nutrition education has been scheduled. Per the mandate of Public Law 101–147, State agencies would be required by the new § 246.4(a)(21) (discussed in section 4.d. of this preamble) to describe in their State plans any alternative food instrument distribution policies and systems. In a conforming amendment, the reference to § 246.12(r)(8) (i) and (ii) in § 246.7(f)(2)(iv) would be changed to section 246.12(r)(8).

The Department would carefully scrutinize plans for alternate issuance of food instruments through the State plan review process and monitor the effects of implementation during management evaluations in order to ensure that alternative issuance does not jeopardize the quality of program services or fiscal accountability.

12. Local Agency Review Requirement (§ 246.19(b)(3))

Section 213(a)(2)(B) of Public Law 101–147 adds a new section 17(f)(21) to the CNA of 1966 mandating that "each State agency shall conduct monitoring reviews of each local agency at least biennially." In the absence of a legislative provision regarding the review of local agencies, § 246.19(b)(3) of current regulations requires that the State agency review all of its local agencies annually. This requirement is not inconsistent with the new legislative mandate that local agencies, be reviewed at least once every other year. However, the Department believes that the current regulatory requirement directs an inordinate amount of State agency resources to this aspect of program management. State agencies

would be required under a separate proposed rulemaking to devote additional resources to vendor monitoring, a segment of program operations where the potential for abuse and loss of funds is considerably greater. Therefore, the Department proposes to amend § 246.19(b)(3) to reduce the local agency review requirement. That is, the State agency would be required to review each local agency under its jurisdiction not less frequently than every other year. The State agency would continue to be required to review the greater of 20 percent of the clinics in each local agency or one clinic for each local agency it reviews.

13. Reference to Departmental Rule on Debarment and Suspension/Drug-Free Workplace (§§ 246.2, 246.4(a), 246.6(b), 246.24(a))

Executive Order (E.O.) 12549, signed by the President on February 18, 1986, stipulated the establishment of debarment and suspension procedures to protect the integrity of nonprocurement programs funded by the Federal Government and procurement contracts over $25,000 at the grantee and subgrantee levels. This action was taken to parallel the debarment and suspension system already in place for Federal procurement activities. In response to E.O. 12549, a final rule creating 7 CFR part 3017 was published in the **Federal Register** on January 30, 1989 (54 FR 4722). An interim final rule expanding 7 CFR part 3017 was published in the **Federal Register** on January 31, 1989 (54 FR 4946), addressing the Governmentwide Drug-Free Workplace Requirements of the Drug-Free Workplace Act of 1988, part of the omnibus drug legislation enacted on November 18, 1988. The interim rule allowed a 60-day comment period; a final rule has not yet been published. While program-specific regulations were not required for implementation, this rule would include reference to these existing requirements. WIC Program regulations would therefore be updated through this rulemaking to add the following definition of "7 CFR part 3017": "the Department's Common Rule regarding Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace. Part 3017 implements the requirements established in Executive Order 12549 (February 18, 1988) and sections 5151–5160 of the Drug-Free Work place Act of 1988 (Pub. L. 100–690)." Section 246.24(a), "Procurement and property management," would also be amended to require compliance with the mandates of 7 CFR part 3017. Specific provisions of the nonprocurement debarment/suspension and drug-free workplace requirements are discussed below.

a. Nonprocurement Debarment and Suspension

Debarment is an action taken by a Federal agency to exclude a person (or other entity) from participating in any transactions involving Federal funds or other assistance. Suspension is an action taken to exclude a person from such transactions immediately, for a temporary period, pending the completion of a debarment or other legal action. A debarment and suspension system applicable to Federal procurement under the Federal Acquisition Regulations has been in effect for a number of years. The final rule for 7 CFR part 3017 establishes a similar debarment and suspension system for a broad range of grants and lower-level transactions arising under grants. Entities or persons who are debarred or suspended by a Federal agency may not enter into covered contracts or agreements. The rule requires applicable entities to certify that they and their principals have not been debarred or suspended before they can enter into a covered contract or agreement. The rule does not apply to Federal entitlement awards such as the Food Stamp Program or to Federal mandatory awards. Federal WIC grants to State agencies are defined as mandatory awards; therefore, WIC Federal/State agreements are not subject to the requirements outlined in the rule. The rule is, however, applicable to subgrantees such as WIC local agencies, and to recipients of State and local agency contracts such as banks, consultants, infant formula manufacturing companies, and vendors.

Although it is not necessary to amend the Federal/State agreement to incorporate these provisions since the Federal/State WIC grant is exempt, it is necessary to require assurances of compliance both from the State agencies and from their local agencies. Three regulatory amendments are proposed to accomplish this. First, a new § 246.4(a)(22) would be added to require the State to include in its State Plan an assurance of compliance with the nonprocurement debarment/suspension requirements of 7 CFR part 3017. Second, § 246.6(b)(1) would be revised to include a requirement that local agencies comply with the suspension/debarment requirements of 7 CFR part 3017.

b. Drug-Free workplace Requirements

The governmentwide drug-free workplace mandates in 7 CFR part 3017 require Federal grantees to certify that they will provide and maintain drug-free workplaces as a condition of receiving Federal grant assistance. These requirements apply only to direct Federal grant agreements, *i.e.*, to State WIC agencies. Effective March 18, 1989, a Federal agency may not enter into a new grant agreement or renew an existing agreement unless a drug-free workplace certification is obtained from the grantee. Federal/State agreement forms are currently being revised to include such an assurance. Until the new forms are completed and approved, the Department is requiring State agencies to sign the certification as an addendum to their current Federal/State agreement. The certifications have already been provided separately to the State WIC agencies by FNS. By signing the certification, the State agency agrees to provide and maintain a drug-free workplace. A new § 246.4(a)(23) would require WIC State agencies to provide in their State plans an assurance of compliance with the requirements of 7 CFR Part 3017 regarding a drug-free workplace, including a description of how they will provide and maintain such a workplace.

Federal monitoring is not required to ensure that grantees have drug-free workplaces. However, 7 CFR part 3017 does establish sanctions that may be imposed for false certification, failure to carry out the drug-free workplace requirements, or failure to make a good-faith effort to provide a drug-free workplace as evidenced by employee drug-use convictions. Such sanctions include suspension of grant payments, suspension or termination of the grant, and governmentwide debarment or suspension action. Once the assurance of compliance with the drug-free workplace provisions officially becomes part of the Federal/State agreement and the State plan, implementation of these provisions would be subject to review (and sanction) by FNS through the management evaluation process.

14. Deletion of Reference to OMB Circular A–90 (§ 246.24(a))

OMB Circular A–90, which addressed the Federal responsibilities for oversight of grantee information systems, was superseded by OMB Circular A–130 in 1986. Circular A–130 covers Federal agency requirements, and as such, does not pertain to the administration of the WIC.

15. Corrections to Program Information (§ 246.27)

Technical revisions would be made to § 246.27 of the WIC Program regulations to reflect address changes or corrections for the Northeast, Mid-Atlantic and Southeast Regional Offices of the Food and Nutrition Service.

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs—social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Public assistance programs, WIC, Women.

For the reasons set forth in the preamble, 7 CFR part 246 is proposed to be amended as follows:

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

1. The authority citation for part 246 is revised to read as follows:

Authority: Secs. 123 and 213, Pub. L. 101–147, 103 Stat. 877 (49 U.S.C. 1751); Sec. 3201, Pub. L. 100–690, 102 Stat. 4181 (42 U.S.C. 1786); sec. 645, Pub. L. 100–460, 102 Stat. 2229 (42 U.S.C. 1786); secs. 212 and 501, Pub. L. 100–435, 102 Stat. 1645 (42 U.S.C. 1786); sec. 3, Pub. L. 100–356, 102 Stat. 669 (42 U.S.C. 1786); sec. 8–12, Pub. L. 100–237, 101 Stat. 1733 (42 U.S.C. 1786); sec. 341–353, Pub. L. 99–500 and 99–591, 100 Stat. 1783 and 3341 (42 U.S.C. 1786); sec. 815, Pub. L. 97–35, 95 Stat. 521 (42 U.S.C. 1786); sec. 203, Pub. L. 96–499, 94 Stat. 2599 (42 U.S.C. 1786); sec. 3, Pub. L. 95–627, 92 Stat. 3611 (42 U.S.C. 1786).

2. In part 246, all references to "7 CFR part 3015" are revised to read "7 CFR part 3016."

3. In § 246.2:

a. Definitions of "Breastfeeding" and "7 CFR part 3017" are added; and

b. The definition of "Family" is revised.

The additions and revision, in alphabetical order, read as follows:

§ 246.2 Definitions.

* * * * *

Breastfeeding means the practice of feeding a mother's breastmilk to her infant(s) on the average of at least once a day.

* * * * *

Family means a group of related or nonrelated individuals who are living together as one economic unit, except that residents of a homeless facility or institution shall not for any purpose at all be considered as members of a single family, and that, only for the purpose of determining adjunct income eligibility under § 246.7(d)(2)(vii), all persons residing together shall be considered to be members of a single family.

* * * * *

7 CFR Part 3017 means the Department's Common Rule regarding Governmentwide Debarment and Suspension (Non-procurement) and Governmentwide Requirements for Drug-Free Workplace. Part 3017 implements the requirements established by Executive Order 12549 (February 18, 1986) and sections 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690).

* * * * *

4. In § 246.3:

a. Paragraph (e)(4) is redesignated as paragraph (e)(5); and

b. A new paragraph (e)(4) is added.

The new paragraph (e)(4) reads as follows:

§ 246.3 Administration.

* * * * *

(e) * * *

(4) A designated breastfeeding promotion coordinator, to coordinate breastfeeding promotion efforts identified in the State plan in accordance with the requirement of § 246.4(a)(9). The person to whom the State agency assigns this responsibility may perform other duties as well.

* * * * *

5. In § 246.4:

a. The first sentence of paragraph (a)(7) is revised;

b. Paragraphs (a)(8) and (a)(9) are revised; and

c. New paragraphs (a)(20)–(a)(24) are added.

The revisions and additions read as follows:

§ 246.4 State plan.

(a) * * *

(7) The State agency's plans, to be conducted in cooperation with local agencies, for informing eligible persons of the availability of Program benefits, including the eligibility criteria for participation, the location of local agencies operating the Program, and the institutional conditions of § 246.7(m)(1)(i), with emphasis on reaching and enrolling eligible women in the early months of pregnancy and migrants. * * *

(8) A description of how the State agency plans to coordinate program operations with special counseling services and other programs, including, but not limited to, the Expanded Food and Nutrition Education Program (7 U.S.C. 343(d) and 3175), the Food Stamp Program (7 U.S.C. 2011 *et seq.*), the Early and Periodic Screening, Diagnosis, and Treatment Program (Title XIX of the Social Security Act), the Aid to Families with Dependent Children (AFDC) Program (42 U.S.C. 601–615), the Maternal and Child Health (MCH) Program (42 U.S.C. 701–709), the Medicaid Program (42 U.S.C. 1396 *et seq.*), family planning, immunization, prenatal care, well-child care, child abuse counseling, and local programs for breastfeeding promotion.

(9) The State agency's nutrition education goals and action plans, including a description of the methods that will be used to promote breastfeeding, and to meet the special nutrition education needs of migrant farmworkers and their families, Indians, and homeless persons.

* * * * *

(20) A plan to provide program benefits to unserved infants and children under the care of foster parents, protective services, or child welfare authorities, including infants exposed to drugs perinatally.

(21) A plan to improve access to the program for participants and prospective applicants who are employed or who reside in rural areas, by addressing their special needs through the adoption or revision of procedures and practices to minimize the time participants and applicants must spend away from work and the distances participants and applicants must travel, including appointment scheduling, adjustment of clinic hours and/or locations, and the mailing of multiple food instruments. The State agency shall also describe any plans for issuance of food instruments to employed or rural participants, or to any other segment of the participant population, through means other than direct participant pick-up, pursuant to § 246.12(r)(8). Such description shall include measures to ensure the integrity of program services and fiscal accountability.

(22) An assurance of the State agency's compliance with the requirements of 7 CFR part 3017 regarding nonprocurement debarment/suspension.

(23) An assurance of the State agency's compliance with the requirements of 7 CFR part 3017 regarding a drug-free workplace, and a description of the State agency's plans to provide and maintain such a workplace.

(24) If the State agency intends to implement adjusted WIC income eligibility guidelines concurrently with Medicaid income eligibility guidelines in accordance with authority conferred by

§ 246.7 (d)(1)(iii)–(d)(1)(iv), a statement to this effect.

* * * * *

6. In § 246.6:

a. Paragraph (b)(1) is revised; and

b. A new paragraph (f) is added.

The revision and addition read as follows:

§ 246.6 Agreements with local agencies.

* * * * *

(b) * * *

(1) Complies with all the fiscal and operational requirements prescribed by the State agency pursuant to this part, 7 CFR part 3016, the debarment and suspension requirements of 7 CFR part 3017, and FNS guidelines and instructions, and provides on a timely basis to the State agency all required information regarding fiscal and Program information;

* * * * *

(f) *Hospital agreements.* If a local agency operates the WIC Program either in, or in cooperation with, a hospital, the local agency shall enter into a written agreement with the hospital which incorporates the following provisions and provide the State agency with a copy to append to the State-local agency agreement:

(1) Potentially eligible individuals that receive inpatient or outpatient prenatal, maternity, or postpartum services, or that accompany a child under the age of 5 who receives well-child services, shall be advised of the availability of program services; and

(2) To the extent feasible, the local agency shall provide an opportunity for individuals who may be eligible to be certified within the hospital for participation in the WIC Program.

7. In § 246.7:

a. Paragraphs (b)–(m) are redesignated as paragraphs (c)–(n);

b. A new paragraph (b) is added;

c. The last sentence of paragraph (d)(1)(iii) is revised;

d. A new paragraph (d)(1)(iv) is added;

e. Paragraph (d)(2)(vii) is revised;

f. A new paragraph (d)(2)(x) is added;

g. In paragraph (f)(2)(iv), the reference to "§ 246.12(s)(8) (i) and (ii)" is revised to read "§ 246.12(r)(8)";

h. The introductory text of paragraph (h)(1) and paragraph (h)(1)(ii) are revised;

i. The first sentence of paragraph (j)(6) is revised; and

j. A new paragraph (j)(9) is added.

The additions and revisions read as follows:

§ 246.7 Certification of participants.

* * * * *

(b) *Program referral and access.* State and local agencies shall provide WIC Program applicants and participants with information on other health-related and public assistance programs, and when appropriate, shall refer applicants and participants to such programs.

(1) The State agency shall ensure that written information concerning the Food Stamp Program, the program for Aid to Families with Dependent Children under Title IV–A of the Social Security Act (AFDC), and the Child Support Enforcement Program under Title IV–D of the Social Security Act, is provided on at least one occasion to each adult participant in, and each applicant for, the WIC Program.

(2) The State agency shall provide each local WIC agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 5 under the medical assistance program established under Title XIX of the Social Security Act (in this section, referred to as the "Medicaid Program"). The local agency shall, in turn, provide to individuals applying for the WIC Program or reapplying at the end of their certification period, written information about the Medicaid Program. If such individuals are not currently participating in Medicaid but appear to have family income below the applicable maximum income limits for the program, the local agency shall also refer the WIC applicant/participant to Medicaid or to the appropriate entity in the area authorized to determine presumptive eligibility for the Medicaid Program.

(3) Local agencies shall provide information about other potential sources of food assistance in the local area to individuals who apply in person to participate in the WIC Program, but who cannot be served because the Program is operating at capacity in the local area.

(4) Each local agency that does not routinely schedule appointments shall schedule appointments for each employed individual seeking to apply for participation in the WIC Program so as to minimize the time each such individual is absent from the workplace due to such application.

(5) Each local agency shall attempt to contact each pregnant woman who misses her first appointment to apply for participation in the Program in order to reschedule the appointment. Such procedure shall consist, at a minimum, of the following:

(i) At the time of initial contact, the local agency shall request an address and telephone number where the pregnant woman can be reached.

(ii) If the applicant fails to attend her first certification appointment, the local agency shall attempt to contact her by telephone or mail. If the local agency establishes contact by telephone, it shall offer the applicant one additional certification appointment.

(iii) If the local agency cannot reach the applicant by telephone, or chooses to make initial contact by mail, the local agency shall send the applicant one card or letter asking that the applicant contact the local agency for a second appointment, and shall provide such appointment upon request from the applicant.

* * * * *

(d) * * *

(1) * * *

(iii) * * * The local agency shall implement new guidelines effective July 1 of each year for which such guidelines are issued by the State, except as provided in paragraph (d)(1)(iv) of this section.

(iv) The State agency may implement the revised WIC income eligibility guidelines on the same date as the State Medicaid Program implements its guidelines, provided that:

(A) WIC guidelines shall not be made effective as of a date that precedes the date on which they are announced;

(B) The State agency's revised guidelines shall not exceed the income limits established for reduced-price meals by section 9(b) of the National School Lunch Act, as amended; and

(C) The State agency may not postpone implementation of WIC income eligibility guidelines beyond July 1 in order to coordinate implementation with Medicaid guidelines.

(2) * * *

(vii) The State agency shall accept as income-eligible for the Program all applicants who document that they are:

(A) A recipient of food stamps under the Food Stamp Act of 1977, Aid to Families with Dependent Children (AFDC) under part A of title IV of the Social Security Act, or of Medical Assistance (*i.e.*, Medicaid) under Title XIX of the Social Security Act; or

(B) A member of a family that receives assistance under AFDC, or a member of a family in which a pregnant woman or an infant receives assistance under Medicaid.

* * * * *

(x) Applicants who meet the criteria established in paragraph (d)(2)(vii) of this section shall not be subject to income limits established under paragraph (d)(1) of this section. The State agency may accept, as evidence of income within Program guidelines,

documentation of the applicant's participation in State-administered programs not specified in this paragraph that routinely require documentation of income, provided that those programs have eligibility guidelines at or below the State agency's Program income guidelines.

* * * * *

(h) * * *

(1) The State agency shall ensure that local agencies disqualify an individual in the middle of a certification period if, on the basis of a reassessment of Program eligibility status, the individual is determined ineligible; provided, however, that the State agency may presume that persons determined to be adjunctively income-eligible for the Program under paragraph (d)(2)(vii) of this section continue to be income-eligible for their entire certification period. The State agency may authorize local agencies to disqualify an individual in the middle of a certification period for the following reasons:

* * * * *

(ii) Failure to pick up his or her food instruments or supplemental foods for a number of consecutive months, as specified by the State agency, or, if the State agency issues food instruments by means other than direct pick-up, failure to redeem such food instruments for a specific number of consecutive months.

* * * * *

(j) * * *

(6) A person who is about to be suspended or disqualified from program participation at any time during the certification period shall be advised in writing not less than 15 days before the suspension or disqualification, except that persons who may be disqualified due to residence in homeless facilities or institutions that do not meet the conditions of § 246.7 (m)(1)(i)(A)–(m)(1)(i)(D) shall receive 30 days advance notice. * * *

* * * * *

(9) If a State agency must suspend or terminate benefits to any participant during the participant's certification period due to a shortage of funds for the Program, it shall issue a notice to such participant in advance, as stipulated in paragraph (j)(6) of this section. Such notice shall also include the categories of participants whose benefits are being suspended or terminated due to such shortage.

* * * * *

8. In § 246.11:

a. A new sentence is added at the end of paragraph (c)(2);

b. Paragraphs (c)(3), (c)(5), and (c)(6) are revised;

c. A new paragraph (c)(8) is added; and

d. Paragraph (e)(4) is revised.

The addition and revisions read as follows:

§ 246.11 Nutrition education.

* * * * *

(c) * * *

(2) * * * The State agency shall also provide training on the promotion and management of breastfeeding to staff at local agencies who will provide information and assistance on this subject to participants.

(3) Identify or develop resources and educational material for use in local agencies, including breastfeeding promotion and instruction materials, taking reasonable steps to include materials in languages other than English in areas where a significant number or proportion of the population needs the information in a language other than English, considering the size and concentration of such population and, where possible, the reading level of participants.

* * * * *

(5) Annually perform and document evaluations of nutrition education and breastfeeding promotion and support activities. The evaluations shall include an assessment of participants' views concerning the effectiveness of the nutrition education and breastfeeding promotion and support they received.

(6) Monitor local agency activities to ensure compliance with provisions set forth in paragraphs (c)(8), (d), and (e) of this section.

* * * * *

(8) Establish standards for breastfeeding promotion and support which include, at a minimum, the following:

(i) A policy that creates a positive clinic environment which endorses breastfeeding as the preferred method of infant feeding;

(ii) A requirement that each local agency incorporate task-appropriate coordinate breastfeeding promotion and support activities;

(iii) A requirement that each local agency incorporate task appropriate breastfeeding promotion and support training into orientation programs for new staff involved in direct contact with WIC clients; and

(iv) A plan to ensure that women have access to breastfeeding promotion and support activities during the prenatal and postpartum periods.

* * * * *

(e) * * *

(4) The local agency shall document in each participant's certification file that nutrition education has been given to the participant in accordance with the State agency standards, except that the second or any subsequent nutrition education contact during a certification period that is provided to a participant in a group setting may be documented in a masterfile. Should a participant miss a nutrition education appointment, the local agency shall, for purposes of monitoring and further education efforts, document this fact in the participant's file, or, at the local agency's discretion, in a master file, in the case of a second or subsequent missed contact where the nutrition education was offered in a group setting.

* * * * *

9. In § 246.12, paragraph (r)(8) is revised to read as follows:

§ 246.12 Food delivery systems.

* * * * *

(r) * * *

(8) Participants or their authorized proxies shall personally pick up food instruments from the local agency when scheduled for nutrition education or for an appointment to determine whether participants are eligible for a second or subsequent certification period. However, in all other circumstances the State agency may provide for issuance of food instruments through an alternative means, such as mailing, to specified categories of participants in specified areas, unless FNS determines that such action would jeopardize the integrity of program services or program accountability.

* * * * *

10. In § 246.14, a new paragraph (c)(9) is reserved and (c)(10) is added to read as follows:

§ 246.14 Program costs.

* * * * *

(c) * * *

(9) [Reserved]

(10) The cost of breastfeeding aids.

* * * * *

8. In § 246.19, paragraph (b)(3) is revised to read as follows:

§ 246.19 Management evaluation and reviews.

* * * * *

(b) * * *

(3) The State agency shall conduct monitoring reviews of each local agency at least once every two years. Such reviews shall include on-site reviews of a minimum of 20 percent of the clinics in each local agency or one clinic, whichever is greater. The State agency may conduct such additional on-site reviews as it finds necessary.

* * * * *

9. In § 246.24, paragraph (a) is revised to read as follows:

§ 246.24 Procurement and property management.

(a) *Requirements.* State and local agencies shall comply with the requirements of 7 CFR part 3016 and 7 CFR part 3017 concerning the procurement and allowability of food in bulk lots, supplies, equipment and other services with Program funds. These requirements are adopted by FNS to ensure that such materials and services ars obtained for the Program in an effective manner and in compliance with the provisions of applicable law and executive orders.

* * * * *

10. In § 246.27, paragraphs (a)–(c) are revised to read as follows:

§ 246.27 Program information.

* * * * *

(a) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont: U.S. Department of Agriculture, FNS, Northeast Region, 10 Causeway Street, Room 501, Boston, Massachusetts 02222–1066.

(b) Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, West Virginia: U.S. Department of Agriculture, FNS, Mid-Atlantic Region, Mercer Corporate Park, CN–02150, Trenton, New Jersey 08650.

(c) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee: U.S. Department of Agriculture, FNS, Southeast Region, 77 Forsyth Street SW., Suite 112, Atlanta, Georgia 30303.

* * * * *

Dated: June 28, 1990.

Betty Jo Nelson,

Administrator, Food and Nutrition Service.

[FR Doc. 90–15503 Filed 7–6–90; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 931

[Docket No. FV–90–180PR]

Expenses and Assessment Rate for Marketing Order Covering Fresh Bartlett Pears Grown in Oregon and Washington

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 931 for the 1990–91 fiscal period (July 1–June 30). The proposal is needed for the Northwest Fresh Bartlett Pear Marketing Committee (committee) established under M.O. 931 to incur operating expenses during the 1990–91 fiscal period and to collect funds during that period to pay those expenses. This would facilitate program operations.

DATES: Comments must be received by July 19, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–475–3862.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement and Marketing Order No. 931 (7 CFR part 931) regulating the handling of fresh Bartlett pears grown in Oregon and Washington. The Bartlett pear marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of fresh Bartlett pears regulated under this marketing order each season and approximately 1,900 Bartlett pear producers in Washington and Oregon. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

The Bartlett pear marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable pears handled from the beginning of such year. An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The members of the committee are pear handlers and producers. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area, and are thus in a position to formulate appropriate budgets. The committee's budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing the anticipated expenses by expected shipments of pears (in standard boxes). Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses.

The committee met on May 31, 1990, and unanimously recommended 1990–91 fiscal period expenditures of $78,485 and an assessment rate of $0.015 per standard box or equivalent of assessable pears shipped under M.O. 931. In comparison, 1989–90 fiscal period budgeted expenditures were $81,386 and the assessment rate was the same as recommended for the 1990–91 fiscal period. These expenditures are primarily for program administration. Most of the expenditure items are budgeted at about last year's amounts. One substantial difference between 1990–91 budgeted expenditures and those for 1989–90 is a $6.037 decrease in funds allocated for unforeseen contingencies.

Assessment income for the 1990–91 fiscal period is expected to total $49,118 based on shipments of 3,274,533 packed boxes of pears at $0.015 per standard box or equivalent. Other available funds include a reserve of $27,867 carried into this fiscal period, and $1,500 in miscellaneous income, primarily from

interest bearing accounts. Hence, total available funds equal the recommended budget.

The committee also unanimously recommended that any unexpended funds or excess assessments from the 1989–90 fiscal period be placed in its reserve. The reserve is within the limits authorized under the marketing order.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budget and assessment rate approvals need to be expedited. The committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 931

Bartlett pears, Marketing agreements, Reporting and recordkeeping requirements.

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

For the reasons set forth in the preamble, it is proposed that 7 CFR part 931 be amended as follows:

1. The authority citation for 7 CFR part 931 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 931.225 is added to read as follows:

§ 931.225 Expenses and assessment rate.

Expenses of $78,485 by the Northwest Fresh Bartlett Pear Marketing Committee are authorized, and an assessment rate of $0.015 per standard box or equivalent of assessable pears is established, for the fiscal period ending June 30, 1991. Unexpended funds from the 1989–90 fiscal period may be carried over as a reserve.

Dated: July 2, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–15744 Filed 7–6–90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 980

[Docket No. FV-90-153]

Amendment to the Size and Quality Requirements for Imported Onions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Advance notice of proposed rulemaking; request for public comment.

SUMMARY: The Agricultural Marketing Service (AMS) invites comments on the need for amending the Onion Import Regulation (7 CFR 980.117), which establishes quality and size requirements for onions imported into the United States comparable to those established for domestically grown onions under Federal marketing orders. Under consideration is a change to establish a new transition date after which quality and size requirements for imported onions would be based on those established for South Texas onions rather than Idaho-Eastern Oregon onions. Current onion marketing conditions may necessitate changing the import requirements so that they are based upon the domestic regulation covering onions grown in the area with which imports are in most direct competition.

DATES: Written suggestions, views or pertinent information relative to this action will be considered if received by September 7, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**, and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: 202–447–2431.

SUPPLEMENTARY INFORMATION: This advance notice of proposed rulemaking invites comments on the need to amend the Onion Import Regulation (7 CFR 980.117). Any subsequent rulemaking actions that may be undertaken as a result of this action would be reviewed by the Department under Executive Order 12291 and Departmental Regulation 1512–1. Pursuant to requirements set forth in the Regulatory Flexibility Act, the Administrator of the AMS would also give due consideration to the economic impact any such actions would have on small entities.

The onion import regulation is effective under section 8e of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601–674), hereinafter referred to as the Act, which requires imported onions to meet the same or comparable grade, size, quality and maturity standards as are in effect for domestic onions under a Federal marketing order. The Act further provides that when two or more marketing orders regulating the same commodity are concurrently in effect, imports will be subject to the requirements established for the commodity grown in the area with which the imported commodity is in most direct competition.

Domestically grown onions are currently regulated under two marketing orders. Marketing Order No. 958 (7 CFR part 958) applies to onions grown in the southern portion of Idaho and Malheur County, Oregon. This area produces a late summer storage crop which is shipped throughout the year. Most of the crop is marketed from August through the following April, although small volumes move in May, June and July. Fresh shipments in recent years have averaged about 680 million pounds annually. About 90 percent of the total shipments were yellow, sweet Spanish onions, with the remaining 10 percent divided about equally between white and red varieties.

The handling requirements for Idaho-Eastern Oregon onions are specified in § 958.328. That regulation establishes quality and size requirements for three categories of onions grown in the production area—white varieties, red varieties and all other varieties (which are principally yellow varieties). All onions (except braided red onions) that are shipped to fresh markets are required to be at least "moderately cured" and grade at least U.S. No. 2. Red and white varieties are required to meet a minimum size requirement of 1⅛ inches in diameter, although white onions ranging in size from 1 inch to 2 inches in diameter may be shipped if they grade U.S. No. 2 or U.S. Commercial. The minimum size requirement for other (i.e., yellow) varieties that grade U.S. No. 2 or U.S. Commercial is 3 inches in diameter. Yellow onions that grade U.S. No. 1 must be at least 1½ inches in diameter.

Domestically grown onions are also regulated under Marketing Order No. 959 (7 CFR part 959), which covers the 35 southernmost counties in Texas. This

area produces a spring onion crop which is marketed shortly after harvest. South Texas onion shipments typically begin in late February or early March, and are completed by early June. Annual fresh shipments from the area have averaged about 270 million pounds in recent years. Yellow grano and granex type onions account for over 90 percent of the total volume, with the balance consisting of white varieties.

The handling requirements for South Texas onions are specified in § 959.322 (as amended at 55 FR 7690, March 5, 1990). That regulation applies to yellow and white varieties shipped from March 1 through May 20 each year, and requires that such onions contain not more than 20 percent defects of U.S. No. 1 grade. Additionally, onions are subject to the following size designations: Small, ranging from 1 to 2¼ inches in diameter (white varieties only); Repacker, ranging from 1¾ to 3 inches; Medium, ranging from 2 to 3⅛ inches; Jumbo or Large, 3 inches and larger; and Extra Large 3¾ inches and larger.

Onions are imported into the United States throughout the year from a number a different countries. Over the last 3 years, the total volume of onions imported into the U.S. has averaged about 255 million pounds annually. By far the largest source of imported onions is Mexico, which accounts for about 80 percent of the total. Mexican onions enter the U.S. from November through July, with the heaviest volumes moving during the months of January through April. Other major sources of imported onions are Canada, which accounts for about 10 percent of the total and ships from July through April, and Chile, which accounts for about 5 percent and ships during the March through May period. Small volumes are also imported from Australia, Belgium, France, Guatemala, Israel, Morocco, the Netherlands, New Zealand and Taiwan.

As previously indicated, onion shipments from South Texas are regulated from March 1 through May 20 each year, while those from Idaho-Eastern Oregon are regulated year-round. Since both areas are shipping regulated onions from March 1 to May 20, it is necessary in accordance with the Act to determine which of these areas is in more direct competition with imported onions during that period. In recent seasons, imported onions have been determined to be in most direct competition with onions grown in South Texas from March 10 to May 20, and with those grown in Idaho-Eastern Oregon during the rest of the year.

The AMS has received a request from the South Texas onion industry to consider changing the date after which onion import requirements are based on those established for South Texas onions from March 10 to March 1. Some Texas onions shippers believe that imported onions should meet the same quality and size requirements as are imposed on onions grown in South Texas throughout the South Texas shipping season. In support of this position, they point to the fact that most imported onions (i.e., those from Mexico) enter the U.S. through South Texas and many are imported and sold by Texas shippers. Additionally, Mexican onions are sold in the same markets as Texas onions, and onions imported from Mexico are of the same varieties as those grown in South Texas. For these reasons, the South Texas onion industry believes that onion imports are in most direct competition with shipments from South Texas from the time its shipping season begins until May 20 rather than those from Idaho-Eastern Oregon.

At the same time, however, members of the Idaho-Eastern Oregon onion industry have requested that the date be moved to April 1. In support of this position. Idaho-Eastern Oregon onion shippers offer various shipment data as evidence of that area's position as the predominant domestic source of onions throughout the entire month of March. For example, during the years 1980 through 1989, total March shipments from Idaho-Eastern Oregon exceeded those from South Texas with only one exception (1982). On a daily basis, shipments from South Texas first exceeded those from Idaho-Eastern Oregon as early as March 16 and as late as March 31. The Idaho-Eastern Oregon onion shippers also point to weekly onion arrivals in 22 major cities from 1986 through 1989, which show total arrivals from Idaho-Eastern Oregon exceeded those from South Texas through the week ending March 31 in all 4 years. Idaho-Eastern Oregon onion shippers have therefore concluded that imported onions are in most direct competition with their onions through March 31 because of the volume of its shipments and the wide distribution of Mexican onion sales throughout the U.S.

The AMS is therefore soliciting the views of domestic onion growers, shippers, importers and other interested persons on this issue. Specifically, comments are requested regarding the appropriate transition date and the reasons for selection of such a date in connection with determining the domestic production area with which imported onions are in most direct competition during the time when both Idaho-Eastern Oregon and South Texas onions are being regulated.

The intent of the revision in the onion import regulation currently under consideration is to ensure, consistent with the Act, that imports are subject to the same or comparable requirements as are imposed on domestic onions grown in the area with which imports are in most direct competition. The AMS is therefore interested in receiving information from producers, handlers, importers, commercial users and consumers of domestic and imported onions concerning this proposal, including its probable regulatory impact. All views are solicited in order that all aspects of this potential revision may be studied prior to formulating a proposed rule, if the Department deems that such is warranted.

This request for public comment does not constitute notification that the recommendation to change the onion import regulation described in this document is or will be proposed or adopted.

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 2, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–15743 Filed 7–6–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Parts 982 and 999

[Docket No. FV–89–103PR]

Filberts/Hazelnuts Grown in Oregon and Washington; Proposed Changes in Quality Requirements for Domestic and Imported Shelled Filberts/Hazelnuts; Extension of Comment Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; extension of the comment period.

SUMMARY: Notice is hereby given that the time period for filing comments is extended on the proposed rule published in the June 7, 1990, issue of the Federal Register (55 FR 23205) for domestic and imported shelled filberts/hazelnuts. The comment period is extended until September 7, 1990.

DATES: Written suggestions, views, or pertinent information will be considered if received by September 7, 1990.

ADDRESSES: Interested persons are invited to submit written statements in triplicate to: Docket Clerk, F&V, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, DC 20090–6456. Such submissions should reference the

docket number and the date and page number of the **Federal Register** and will be made available for public inspection in the Office of Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2525, South Building, Washington, DC 20090-6456; telephone (202) 475-3920.

SUPPLEMENTARY INFORMATION:

The proposed rule to change the quality requirements for domestic shelled filberts/hazelnuts was issued under Marketing Order 982, as amended (7 CFR part 982), regulating the handling of filberts/hazelnuts grown in Washington and Oregon. This order is effective pursuant to the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601-674), as amended. The proposed rule was issued on June 4, 1990, and published on June 7, 1990, in the **Federal Register** (55 FR 23205). It proposed to change the quality requirements for domestic shelled filberts/hazelnuts by reducing from 2 percent to 1 percent the tolerance for the major defects of mold, insect injury, rancidity, and decay. A corresponding change would be made in section 999.400 of the import regulations which affect imported shelled filberts/hazelnuts. Comments were requested to be received July 9, 1990.

The Department of Agriculture has received a request to extend the deadline by 90 days to October 8, 1990, to provide more time for interested persons to analyze the proposed rule and prepare comments. However, an extension of 60 days is deemed reasonable and appropriate. Extending the comment period will provide such interested persons more time to review this proposed rule and submit written views and information pertinent to the proposed changes. Accordingly, the comment period is extended to September 7, 1990.

List of Subjects

7 CFR Part 982

Filberts/hazelnuts, Marketing agreements, Nuts, and Reporting and recordkeeping requirements.

7 CFR Part 999

Dates, Filberts/hazelnuts, Food grades and standards, Imports, Nuts, Prunes, Raisins, Reporting and recordkeeping requirements, and Walnuts.

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Dated: July 3, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-15840 Filed 7-6-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 989

[Docket No. FV-90-134PR]

Raisins Produced From Grapes Grown in California; Changing Terminology Regarding Procedures for Off-Grade Raisins Received By Handlers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on a revision to the administrative rules and regulations of the marketing order regulating raisins produced from grapes grown in California. This action would clarify terminology with regard to off-grade raisins received by handlers to be disposed of in nonnormal outlets or for reconditioning. This action was unanimously recommended by the Raisin Administrative Committee (RAC), which is responsible for local administration of the marketing order.

DATES: Comments must be received by: August 8, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3920.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under marketing agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 25 handlers of raisins who are subject to regulation under the raisin marketing order and approximately 5,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts for the last three years of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of producers and a minority of handlers of California raisins may be classified as small entities.

The marketing order requires all natural condition raisins acquired or received by handlers to meet incoming minimum grade and condition standards. Natural condition raisins are those raisins which have been produced by sun-drying or artificial dehydration but have not been further processed for marketing. The order also authorizes handlers to receive or acquire off-grade raisins for disposition in specific outlets.

This proposed rule revises terminology in the order's rules and regulations with regard to procedures for off-grade raisins received by handlers to be disposed of in nonnormal outlets or for reconditioning. During reconditioning, off-grade raisins are further processed to improve the quality of a raisin lot in order for it to pass the minimum grade and condition standards. Such an action is authorized pursuant to § 989.58(e) of the marketing order. That section authorizes handlers to receive or acquire off-grade raisins and the RAC to recommend rules and procedures concerning control of such raisins.

Section 989.24(b) of the marketing order defines off-grade raisins to mean raisins which do not meet the current incoming minimum grade and condition standards for natural condition raisins. Pursuant to § 989.58(e)(1) of the order, when incoming natural condition raisins fail to meet the applicable grade and condition standards, they may be: (1) Received by the raisin handler for disposal in eligible non-normal outlets (e.g., livestock feed or distillation); (2) received by the handler for reconditioning; or (3) returned unstemmed to the raisin producer.

Currently, § 989.158(a)(3) of the rules and regulations provides that raisins received by handlers as off-grade for disposition in eligible non-normal outlets or for reconditioning may be accepted under a "limited inspection." Raisin lots can be designated as off-grade by the producer if the producer determines that such raisins are in poor condition (off-grade). Therefore, the producer may decide to deliver off-grade lots to a handler for disposition in nonnormal outlets or reconditioning.

In actual handler operations, handlers submit an application, on a form provided by the RAC, to the U.S. Department of Agriculture (USDA) Inspection Service requesting a limited inspection and indicate on the form the particular defects in lots of raisins received. The USDA inspector states on the inspection worksheet that the lot is uninspected and that the applicant (handler) has stated the reason the lot is determined to be off-grade. The lot is then marked with an RAC control card which indicates that the lot is uninspected and under surveillance by the Inspection Service pending disposition or reconditioning. An RAC control card contains particular information about the lot under surveillance and is marked with a number which corresponds to inspection worksheets which are used by USDA inspectors. No inspection is actually performed as the term "limited inspection" would imply.

The information collection requirements contained in the section of the regulations that would be amended by this proposed rule have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB No. 0581-0083.

The RAC has indicated that the term "limited inspection," with regard to off-grade raisins received by handlers contained in the rules and regulations, is confusing to the industry since it implies that an actual inspection has been performed. The RAC has therefore recommended that the rules and regulations be revised to remove the confusing terminology and describe the actual procedures performed by the Inspection Service with regard to off-grade raisins received by handlers.

Based on the above information, the Administrator of the AMS has determined that issuance of this proposed rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, and Reporting and recordkeeping requirements.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

For the reasons set forth in the preamble, 7 CFR part 989 is proposed to be amended to read as follows:

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674.

Subpart—Administrative Rules and Regulations

2. Section 989.158 is amended by revising the fifth sentence through the last sentence of paragraph (a)(3) to read as follows:

§ 989.158 Natural condition raisins.

(a) *Incoming inspection.* (1) * * *

(3) * * * Any raisins received by a handler as off-grade for disposition in eligible non-normal outlets or for reconditioning may be accepted uninspected: *Provided,* That an application for receiving such uninspected raisins shall be submitted by the handler, on a form furnished by the Committee, to the Inspection Service prior to, or upon physical receipt of, such off-grade raisins. Such form shall provide for at least the name and address of the tenderer (equity holder), date, number, and type of containers, net weight of the raisins, and the particular deficit(s) the handler indicates would cause the raisins to be off-grade. Handlers shall complete and sign the form. The aplication for such uninspected raisins shall not be acceptable unless signed by the tenderer. The uninspected raisins shall be subject to surveillance by the Inspection Service. Each lot of raisins accepted by a handler for reconditioning shall be reconditioned separately from any other lot.

* * * * *

Dated: July 3, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-15829 Filed 7-6-90; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1004

[Docket No. AO-160-A65-RO2; DA-90-003]

Milk in the Middle Atlantic Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider a proposal to amend the pricing provisions of the Middle Atlantic Federal milk order to accommodate a multiple component pricing plan using values for nonfat milk solids and butterfat to adjust the value of milk used in Class II (or in Class II and Class III) products and payments to producers. The hearing was requested by Pennmarva Dairymen's Federation, Inc., a federation of dairy farmer cooperative associations representing 87 percent of the producers whose milk is pooled under the order.

According to the proposal, Class I prices paid by handlers would be adjusted only for location. The present Order 4 base-excess seasonal pricing plan would be maintained.

DATES: The hearing will convene at 9 a.m., on Tuesday, July 17, 1990.

ADDRESSES: The hearing will be held at the Holiday Inn-Independence Mall, Fourth and Arch Streets, Philadelphia, Pennsylvania 19106 (Telephone 215/923-8660, 800/238-8000.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20260, (202) 447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Holiday Inn-Independence Mall, Fourth and Arch Streets, Philadelphia, Pennsylvania 19106, beginning at 9 a.m., local time, on July 17, 1990, with respect to proposed amendments to the tentative marketing

agreement and to the order regulating the handling of milk in the Middle Atlantic marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedures governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions in the Middle Atlantic marketing area which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order. The proposed order language is based on the amendments to the order that were recommended in a proposed rule issued on May 18, 1990, and published May 25, 1990 (55 FR 21556).

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96–354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Part 1004

Milk marketing orders.

The authority citation for part 1004 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Pennmarva Dairymen's Federation, Inc.:

Proposal No. 1.

Amend the following provisions of the Middle Atlantic order to read as follows:

§ 1004.30 Reports of receipts and utilization.

(a) On or before the eighth day after the end of each month each handler with respect to each of the handler's pool plants shall report for the month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) The quantities of skim milk and butterfat contained in:

(i) Receipts of producer milk (including such handler's own production) and milk received from a cooperative association for which it is a handler pursuant to § 1004.9(c), and the pounds of nonfat milk solids contained in such receipts;

(ii) Receipts of fluid milk products and bulk fluid cream products from other pool plants, and the pounds of nonfat milk solids contained in such receipts; and

(iii) Receipts of other source milk;

(2) The quantities of skim milk and butterfat in inventories at the beginning and end of the month of fluid milk products and products specified in § 1004.40(b)(1); and

(3) The utilization or disposition of all skim milk and butterfat required to be reported pursuant to this paragraph, showing separately in-area route disposition, except filled milk, and filled milk route disposition in the marketing area;

(b) Each handler who operates a partially regulated distributing plant shall report as required in paragrph (a) of this section, except that receipts of milk from dairy farmers shall be reported in lieu of producer milk; such report shall include a separate statement showing the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area;

(c) Each producer-handler and each handler pursuant to § 1004.9(e) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe; and

(d) On or before the eighth day after the end of each month, each cooperative association and/or a federation of cooperative associations shall report with respect to milk for which it is a handler pursuant to § 1004.9(b) or (c) as follows:

(1) Receipts of skim milk, butterfat and nonfat milk solids from producers;

(2) Utilization or disposition of skim milk, butterfat and nonfat milk solids diverted to nonpool plants; and

(3) The quantities of skim milk, butterfat and nonfat milk solids delivered to each pool plant or another handler.

§ 1004.32 Other reports.

(a) Each pool handler shall report to the market administrator in detail and on forms prescribed by the market administrator as follows:

(1) On or before the 25th day after the end of the month for each pool plant, the producer payroll for such month which shall show for each producer:

(i) The producer's name and address;

(ii) The total pounds of milk received from such producer;

(iii) The average butterfat content and average nonfat milk solids content of such milk; and

(iv) The net amount of the handler's payment, together with the price paid and the amount and nature of any deduction;

(2) Such other information with respect to receipts and utilization of butterfat, skim milk and nonfat milk solids as the market administrator shall prescribe.

(b) Promptly after a producer moves from one farm to another, or starts or resumes deliveries to a pool handler, the handler shall file with the market administrator a report stating the producer's name and post office address, the health department permit number, if applicable, the date on which the changes took place, and the farm and plant location involved.

(c) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1004.76(b) shall report the same information as required in paragraph (a) of this section with respect to dairy farmers from whom the handler receives milk.

(d) On or before the 20th day after the end of the month, each handler pursuant to § 1004.9(f) shall report to the market administrator, in the detail and on forms prescribed by the market administrator, all transactions wherein milk was bought or dealt in, giving the following information:

(1) The name and address of any cooperative association or producer for whom the handler by either purchase or direction caused milk of producers to be moved to a plant;

(2) The total pounds of milk involved in the transaction, and the average butterfat and nonfat milk solids content of such milk; and

(3) Such other information with respect to such transaction as the market administrator may prescribe.

(e) Each handler operating a plant described in § 1004.7(f) shall with respect to total receipts and utilization or disposition of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of other reports specified in this section or in § 1004.30) and allow verification of

such reports by the market administrator.

§ 1004.50 Class and component prices.

* * * * *

(d) *Butterfat price.* The butterfat price per pound shall be a figure computed as follows: Subtract from the Class III price an amount computed by multiplying the current month's butter price, based on simple average of the wholesale selling prices per pound (using the mid-point of any price range as one price) of approved (92–score) bulk butter f.o.b. Chicago, as reported by the Department for the month, by 4.025 and divide by 100. Add to the resulting amount the current month's butter price multiplied by 1.15. The sum thereof shall be the price per pound for producer butterfat for the month.

(e) *Nonfat milk solids price.* The price per pound for nonfat milk solids shall be computed by subtracting from the Class III price the butterfat price multiplied by 3.5, and dividing the result by the average percentage of nonfat milk solids in all producer milk for the month.

(f) *Skim milk price.* The skim milk price per hundred weight shall be the Class III price for the month adjusted to remove the value of 3.5 percent butterfat and rounded to the nearest cent. Such adjustment shall be computed by multiplying the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of approved (92–score) bulk butter per pound at Chicago, as reported by the Department for the month, by 4.025 and subtracting the result from the Class III price.

§ 1004.53 Announcement of class prices and component prices.

The market administrator shall announce publicly on or before:

(a) The fifth day of each month, the following:

(1) The Class I price for the following month;

(2) The Class III price for the preceding month; and

(3) The prices for butterfat and skim milk computed pursuant to § 1004.50 (d) and (f).

(b) The fifteenth day of each month, the Class II price for the following month.

§ 1004.54 Equivalent prices or indexes.

If for any reason a price or pricing constituent required by this order for computing class prices or for other purposes is not available as prescribed in this order, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Differential Pool and Handler Obligations

§ 1004.60 Handler's value of milk for computing uniform prices.

The market administrator shall compute each month for each handler defined in § 1004.9(a) with respect to each of such handler's pool plants, and for each handler defined in § 1004.9 (b) and (c), an obligation to the pool computed by adding the following values:

(a) The pounds of milk received from a cooperative association as a handler pursuant to § 1004.9(c) and allocated to Class I pursuant to § 1004.44(a)(13) and the corresponding step of § 1004.44(b), and the pounds of producer milk in Class I as determined pursuant to § 1004.44, both multiplied by the difference between the Class I price (adjusted pursuant to § 1004.52) and the Class III price;

(b) The pounds of milk received from a cooperative association as a handler pursuant to § 1004.9(c) and allocated to Class II pursuant to § 1004.44(a)(13) and the corresponding step of § 1004.44(b), and the pounds of producer milk in Class II as determined pursuant to § 1104.44, both multiplied by the difference between the Class II price and Class III price;

(c) The value of the product pounds, skim milk, and butterfat in overage assigned to each class pursuant to § 1004.44(a)(14) and the value of the corresponding pounds of nonfat milk solids associated with the skim milk subtracted from Class II and Class III pursuant to § 1004.44(a)(14), by multiplying the skim milk pounds so assigned by the percentage of nonfat milk solids in the handler's receipts of producer skim milk during the month, as follows:

(1) The hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1004.44(a)(14) and the corresponding step of § 1004.44(b), multiplied by the difference between the Class I price adjusted for location and the Class III price, plus the hundredweight of skim milk subtracted from Class I pursuant to § 1004.44(a)(14) multiplied by the skim milk price, plus the butterfat pounds of overage subtracted from Class I pursuant to § 1004.44(b) multiplied by the butterfat price;

(2) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1004.44(a)(14) and the corresponding step of § 1004.44(b) multiplied by the difference between the Class II price and the Class III price, plus the pounds of nonfat milk solids in skim milk subtracted from Class II pursuant to § 1004.44(a)(14) multiplied by the nonfat milk solids price, plus the butterfat pounds of overage subtracted from Class II pursuant to § 1004.44(b) multiplied by the butterfat price;

(3) The pounds of nonfat milk solids in skim milk overage subtracted from Class III pursuant to § 1004.44(a)(14) multiplied by the nonfat milk solids price, plus the butterfat pounds of overage subtracted from Class III pursuant to § 1004.44(b) multiplied by the butterfat price;

(d) The value of the product pounds, skim milk, and butterfat subtracted from Class I or Class II pursuant to § 1004.44(a)(9) and the corresponding step of § 1004.44(b), and the value of the pounds of nonfat milk solids associated with the skim milk subtracted from Class II pursuant to § 1004.44(a)(9), computed by multiplying the skim milk pounds so subtracted by the percentage of nonfat milk solids in the handler's receipts of producer skim milk during the previous month, as follows:

(1) The value of the product pounds, skim milk and butterfat subtracted from Class I pursuant to § 1004.44(a)(9) and the corresponding step of § 1004.44(b) applicable at the location of the pool plant at the current month's Class I-Class III price difference and the current month's skim milk and butterfat prices, less the Class III value of the milk at the previous month's nonfat milk solids and butterfat prices;

(2) The value of the hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1004.44(a)(9) and the corresponding step of § 1004.44(b) at the current month's Class II-Class III price difference and the current month's nonfat milk solids and butterfat prices, less the Class III value of the milk at the previous month's nonfat milk solids and butterfat prices;

(e) The value of the product pounds, skim milk and butterfat subtracted from Class I pursuant to § 1004.44(a)(7) (i) through (iv), and the corresponding step of § 1004.44(b), excluding receipts of bulk fluid cream products from another order plant, applicable at the location of the pool plant at the current month's Class I-Class III price difference;

(f) The value of the product pounds, skim milk and butterfat subtracted from Class I pursuant to § 1004.44(a)(7) (v) and (vi) and the corresponding step of § 1004.44(b) applicable at the location of the transferor-plant at the current month's Class I-Class III price difference;

(g) The value of the product pounds, skim milk and butterfat subtracted from Class I pursuant to § 1004.44(a)(11) and the corresponding step of § 1004.44(b), excluding such hundredweight is receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent quantity disposed of to such plant by handlers fully regulated by any Federal order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order, applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received at the current month's Class I-Class III price difference.

(h) The pounds of skim milk received from a cooperative association as a handler pursuant to § 1004.9(c) and allocated to Class I pursuant to § 1004.44(a)(13), and the pounds of producer milk in Class I as determined pursuant to § 1004.44, both multiplied by the skim milk price for the month computed pursuant to § 1004.50(f).

(i) The pounds of nonfat milk solids in skim milk in receipts allocated to Class II and Class III pursuant to § 1004.44(a)(13) and in producer milk classified as Class II and Class III pursuant to § 1004.44, computed by multiplying the skim milk pounds so assigned by the percentage of nonfat milk solids in the handler's receipts of producer skim milk during the month for each report filed, separately, the result to be multiplied by the nonfat milk solids price for the month computed pursuant to § 1004.50(e).

§ 1004.61 Computation of weighted average differential price, weighted average differential price for base milk, and producer nonfat milk solids price.

For each month the market administrator shall compute a "weighted average differential price", a "weighted average differential price for base milk" received from producers, and a "producer nonfat milk solids price", as follows:

(a) The "weighted average differential price" shall be the result of the following computation:

(1) Combine into one total:

(i) The value computed pursuant to § 1004.60(a) through (g) for all handlers who filed the reports prescribed by § 1004.30 for the month and who made the payments pursuant to § 1004.71 for the preceding mont;

(ii) An amount equal to the total value of the location differentials computed pursuant to § 1004.75;

(iii) An amount equal to not less than one-half of the unobligated balance in the producer-settlement fund.

(2) Divide the total value calculated under paragraph (a)(1) of this section by the sum of the following for all handlers:

(i) The total hundredweight of producer milk pursuant to § 1004.13; and

(ii) The total hundredweight for which a value is computed pursuant to § 1004.60(g).

(3) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "Weighted average differential price."

(b) The "Weighted average differential price for base milk" shall be computed by dividing the total value calculated under paragraph (a)(1) of this section by the total hundredweight of producer base milk pursuant to § 1004.92 and subtracting from the result not less than 4 cents nor more than 5 cents per hundredweight.

(c) The "Producer nonfat milk solids price" to be paid to all producers for the pounds of nonfat milk solids contained in their milk shall be computed by the market administrator each month as follows:

(1) Combine into one total the values computed pursuant to § 1004.60(h) and (i) for all handlers who made reports pursuant to § 1004.30 and who made payments pursuant to § 1004.71 for the preceding month:

(2) Divide the resulting amount by the total pounds of nonfat milk solids in producer milk; and

(3) Round to the nearest whole cent. The result is the "Producer nonfat milk solids price."

§ 1004.62 Computation of uniform price.

A uniform price for producer milk containing 3.5 percent butterfat shall be computed by adding the weighted average differential price determined pursuant to § 1004.61(a) to the Class III price. Section 1004.63 announcement of weighted average differential price, weighted average differential price for base milk, nonfat milk solids price and producer nonfat milk solids price.

On or before the 13th day of each month, the market administrator shall publicly announce for the preceding month by posting in a conspicuous place in his office and by such other means as he deems appropriate, the weighted average differential price, the weighted average differential price for base milk and the producer nonfat milk solids price computed pursuant to § 1004.61, and the price for nonfat milk solids computed pursuant to § 1004.50(e).

§ 1004.71 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1004.60 for such handler;

(b) The sum of:

(1) The value of milk received by such handler from producers and from cooperative association handlers pursuant to 1004.9(c) at the applicable price(s) pursuant to § 1004.50 and § 1004.61 adjusted by applicable location differentials, less in the case of a cooperative association on milk for which it is a handler pursuant to § 1004.9(c), the amount due from other handlers pursuant to § 1004.73(d); and

(2) The value at the uniform price, computed pursuant to § 1004.62, adjusted by the applicable location differential on nonpool milk pursuant to § 1004.75(b), with respect to other source milk for which a value was computed pursuant to § 1004.60(g).

(c) Each handler operating a plant specified in § 1004.7(f)(1) if such plant is subject to the classification and pricing provisions of another order which provides for individual-handler pooling, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of on routes in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant on routes in the marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area; and

(2) Compute the value of the quantity assigned in paragraph (c)(1) of this section to Class I disposition in the marketing area, at the Class I price under this part applicable at the location of the other order plant and subtract its value at the Class III price.

§ 1004.73 Value of producer milk.

The total value of milk received from producers during any month shall be the sum of the following calculations:

(a) The value of a producers' base milk shall be the sum of the following:

(1) The weighed average differential price for base milk computed pursuant to § 1004.61(b) subject to the appropriate plant location adjustment times the total hundredweight of base milk received from the producer;

(2) The total nonfat milk solids contained in the producer milk received

from the producer multiplied by the producer nonfat milk solids price computed pursuant to § 1004.61; and

(3) The total butterfat contained in the producer milk received from the producer times the butterfat price computed pursuant to § 1004.50(d).

(b) The value of a producer's excess milk shall be the sum of the values computed pursuant to paragraphs (a) (2) and (3) of this section.

§ 1004.74 Payments to producers and to cooperative associations.

(a) Except as provided in paragraphs (b) and (d) of this section, each pool handler shall make payment as specified in paragraphs (a) (1) and (2) of this section to each producer from whom milk is received.

(1) On or before the last day of each month at not less than the Class III price for the preceding month per hundredweight for his deliveries of producer milk during the first 15 days of the month; and

(2) On or before the 20th of the following month at not less than the total amount computed in accordance with the provisions set forth in § 1004.73 with respect to such milk, subject to the following adjustments:

(i) Proper deductions authorized in writing by such producer;

(ii) Partial payment made pursuant to paragraph (a)(1) of this section;

(iii) Less the location differential applicable pursuant to § 1004.75; and

(iv) If by such date such handler has not received full payment from the market administrator pursuant to § 1004.72 for such month he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator determines is authorized by its producer-members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the second day prior to the date on which payments are due individual producers, pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the total due such producer-members as determined pursuant to paragraph (a) of this section;

(c) In the case of milk received by a handler from a cooperative association in its capacity as the operator of a pool plant such handler shall on or before the second day prior to the date on which payments are due individual producers, pay to such cooperative association for milk so received during the month, an amount not less than the value of such milk computed at the applicable class and/or component prices for the location of the plant of the buying handler; and

(d) Each handler who receives milk from a cooperative association handler pursuant to § 1004.9(c) shall, on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at the rate specified in paragraph (a)(1) of this section; and

(2) A final payment equal to the total value of such milk computed pursuant to § 1004.73, adjusted by the applicable differentials pursuant to § 1004.75, less the amount of partial payment on such milk.

(e) In making payments to producers pursuant to paragraph (a)(2) of this section, or to a cooperative association pursuant to paragraph (b) of this section, each pool handler shall furnish such producer or cooperative association with respect to each of its producer members from whom the handler received milk during the month, a written statement showing:

(1) The month and the identify of the handler and the producer;

(2) The total pounds, average butterfat test and average test of nonfat milk solids of milk delivered by the producer;

(3) The minimum rate at which payment to such producer is required under paragraph (a)(2) of this section;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The nature and amount of any deductions made in payment due such producer; and

(6) The net amount of the payment to the producer.

§ 1004.75 Location differentials to producers and on nonpool milk.

(a) For milk received from producers and from cooperative association handlers pursuant to § 1004.9(c) at a plant located 55 miles or more from the city hall in Philadelphia, Pa., and also at least 75 miles from the nearer of the zero milestone in Washington, DC, or the city hall in Baltimore, Md. (all distance to be the shortest highway distance as determined by the market administrator), the weighted average differential price for base milk computed pursuant to § 1004.61(b) shall be reduced 1.5 cents for each 10 miles distance or fraction thereof that such plant is from the nearest of such basing points.

(b) For purposes of computations pursuant to §§ 1004.71 and 1004.74, the weighted average differential price computed pursuant to § 1004.61(a) shall be reduced at the rate set forth in paragraph (a) of this section applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average differential price shall not be less than zero.

§ 1004.76 Payments by a handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(5) From the value of such milk at the Class I price, subtract its value at the uniform price computed pursuant to § 1004.62, and add for the quantity of reconstituted skim milk specified in paragraph (b)(3) of this section its value computed at the Class I price less the value of such milk at the Class III price (except that the Class I price and the uniform price shall be adjusted for the location of the nonpool plant and shall not be less than the Class III price).

§ 1004.86 Deductions for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, making payments directly to producers for milk (other than milk of his own production) pursuant to § 1004.74(a) shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe and shall pay such deductions to the market administrator on or before the 20th day after the end of the month. Such money shall be expended by the market administrator to provide market information and to verify or establish the weights, samples and tests of milk of producers who are not receiving such service from a cooperative association; and

(b) In the case of producers for whom the Secretary determines a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made directly to such producer pursuant to § 1004.74(a) as are authorized by such producers on or before the 18th day after the end of each month and pay such deductions to the cooperative rendering such services.

Proposed by the Dairy Division, Agricultural Marketing Service Proposal No. 2

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Mr. Rex Lothrop, 333 North Fairfax Street, suite 200, Alexandria, VA 22314, or from the Hearing Clerk, room 1081, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reported at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture,
Office of the Administrator, Agricultural Marketing Service,
Office of the General Counsel,
Dairy Division, Agricultural Marketing Service (Washington, office only),
Office of the Market Administrator, Middle Atlantic Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC on: June 29, 1990.

Daniel D. Haley,
Administrator.

[FR Doc. 90-15827 Filed 7-6-90; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1900, 1901, 1910 and 1944

Processing and Servicing FmHA Assistance to Employees, Relatives and Associates

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: Farmers Home Administration (FmHA) proposes new regulations on processing and servicing FmHA assistance to FmHA employees, members of their families, known close relatives and associates. This action is taken to prevent employees from being directly involved in the processing or servicing of authorized FmHA financial assistance to those with whom they have business or close personal associations. The intended effect is to reduce agency vulnerability to employee conflict of interest.

DATES: Comments must be received on or before September 7, 1990.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives and Forms Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC 20250. All written comments will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Joyce M. Halasz, Senior Realty Specialist, Property Management Branch, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, U.S. Department of Agricluture, Room 5309, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC 20250, telephone (202) 382-1452.

SUPPLEMENTARY INFORMATION: FmHA Instruction 2045-BB, Employee Responsibilities and Conduct (available in any FmHA office), requires the maintenance of high standards of honesty, integrity, and impartiality by FmHA employees. To reduce the potential for employee conflict of interest, any processing, approval, servicing or review activity is conducted only by authorized FmHA employees who (1) are not themselves the recipient; (2) are not members of the family or known close relatives of the recipient; (3) do not have an immediate working relationship with the recipient, the employee related to the recipient, or the employee who would normally conduct the activity; or (4) do not have a business or close personal association with the recipient. Nothing in the proposed rule takes procedence over individual program requirements or restrictions. A reference to this rule and its requirements will be added to the regulations of each of the programs affected when the final rule is published, using the following language: "Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to FmHA employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this chapter. Applicants for this assistance are required to identify any known relationship or association with an FmHA employee."

Classification

This proposed action has been reviewed under USDA procedures in Departmental Regulation 1512-1, which implements Executive Order 12291 and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there will be no significant increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. Furthermore, there will be no adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or import markets. This action is not expected to substantially affect budget outlay or affect more than one agency or to be controversial.

Background

On July 16, 1985, the Office of Inspector General presented results of a FmHA Nationwide Audit of County Office Operations (04642-1-Te) which revealed that the agency's internal control process, a major administrative control, did not cover loans to close relatives of FmHA employees. The recommendation was to change regulations to prevent those with loan approval authority from approving loans to their close relatives. The agency determined that there are related areas of vulnerability which should be addressed in a single regulation governing all states of processing and servicing any authorized program assistance provided to FmHA employees, members of their families, known close relatives and business or close personal associates.

Programs Affected

The programs affected are listed in the Catalog of Federal Domestic Assistance under:

10.404 Emergency Loans
10.405 Farm Labor Housing Loans and Grants
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.411 Rural Housing Site Development Loans
10.414 Resource Conservation and Development Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans

10.417 Very Low-Income Housing Repair Loans and Grants
10.418 Water and Waste Disposal Systems for Rural Communities
10.419 Watershed Protection and Flood Prevention Loans
10.420 Rural Self-Help Housing Technical Assistance
10.421 Indian Tribes and Tribal Corporation Loans
10.422 Business and Industrial Loans
10.423 Community Facilities Loans
10.424 Industrial Development Grants
10.427 Rural Rental Assistance Payments
10.428 Economic Emergency Loans
10.433 Housing Preservation Grants
10.434 Nonprofit National Corporation Loan and Grant Program
10.437 Rural Development Loan Fund
10.438 Intermediary Relending Program

Intergovernmental Consultation

This activity affects all FmHA financial assistance programs listed above which are subject to Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR 3015, subpart V).

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Policy Act of 1969, Public Law 91-90, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not directly involve small entities nor does it add or remove any authorities which would affect small entities.

List of Subjects

7 CFR Part 1900

Administrative practice and procedure, Government employees, Conflict of interest, Federal aid programs, Rural areas, Low and moderate income housing, Loan programs—Housing and community development, Loan programs—Agriculture.

7 CFR Part 1901

Agriculture, Authority delegations.

7 CFR Part 1910

Applications, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing, Marital status discrimination, Sex discrimination.

7 CFR Part 1944

Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mobile homes, Mortgages, Rural housing, Subsidies.

Therefore, as proposed, chapter XVIII, title 7, Code of Federal Regulations, is amended as follows:

PART 1900—GENERAL

1. The authority citation for part 1900 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

2. Subpart D of part 1900 is added to read as follows:

Subpart D—Processing and Servicing FmHA Assistance to Employees, Relatives and Associates

Sec.
1900.151 General.
1900.152 Definitions.
1900.153 Identification and reporting of cases.
1900.154 Determination of need for special handling.
1900.155 Designation of responsible authorized official and processing and/or servicing office location.
1900.156 Special handling of loan processing.
1900.157 Special handling of recipient case files.
1900.158 County, District, and State Office records.
1900.159 Finance Office records.
1900.160 Review and reporting functions.
1900.161 State supplements.
1900.162-1900.199 [Reserved].

Exhibits to Subpart D

Exhibit A—Request for Special Handling and Designation of Authorized Officials for Processing and Servicing FmHA Assistance to Employees, Relatives and Associates (available in any FmHA office)

Exhibit B—Guide for Designation of Authorized Approval/Servicing Officials for FmHA Assistance to Employees, Relatives and Associates (available in any FmHA office).

Subpart D—Processing and Servicing FmHA Assistance to Employees, Relatives and Associates

§ 1900.151 General.

(a) Farmers Home Administration (FmHA) Instruction 2045-BB, Employee Responsibilities and Conduct (available in any FmHA office), requires the maintenance of high standards of honesty, integrity, and impartiality by employees. To reduce the potential for employee conflict of interest, any processing, approval, servicing or review activity is conducted only by authorized FmHA employees who:

(1) Are not themselves the recipient

(2) Are not members of the family or known close relatives of the recipient,

(3) Do not have an immediate working relationship with the recipient, the employee related to the recipient, or the employee who would normally conduct the activity.

(4) Do not have a business or close personal association with the recipient.

(b) No provision of this subpart takes precedence over individual program requirements or restrictions, especially those restrictions found in FmHA Instruction 2045-BB (available in any FmHA office) relating to eligibility for FmHA assistance of FmHA employees, members of familes of employees close relatives, or business or close personal associates of employees.

(c) The decision that a case is to receive special handling under the provisions of this subpart is not an adverse action and, therefore, is not subject to appeal.

§ 1900.152 Definitions.

Applicant or borrower. All persons or organizations, individually or collectively, applying for or receiving loan or grant asistance from or through FmHA. Also referred to as recipient.

Assistance. Loans or grants made, insured or guaranteed, or serviced by FmHA.

Associates All persons with whom an employee has a business or close personal association or immediate working relationship.

Business, association. Business interaction between those with an identity or financial interest; including but not limited to a business partnership, being an officer, director, trustee, partner or employee of an organization, or other long-term contractual relationship.

Close personal association. Social interaction between unrelated members of the same household.

Close relatives. The spouse, relatives and step-relatives of an employee or the employee's spouse, including:

Grandmother, Grandfather, Mother, Father
Aunt, Uncle, Sister, Brother
Daughter, Son, Niece, Nephew
Granddaughter, Grandson, First Cousin.

Conflict of interest. A situation (or the appearance of one) in which one could reasonably conclude that an FmHA employee's private interest conflicts

with his or her Government duties and responsibilities, even though there may not actually be a conflict.

Employee. All FmHA personnel, including county or area committee members, loan closing officials and gratuitous employees, and those negotiating for or having arrangements for prospective employment, except as otherwise specifically stated.

Immediate working relationship. A relationship between a subordinate and a supervisor in a direct line, or between co-workers in the same office. For the purposes of this subpart, the relationships among a County Supervisor and members of the local County Committee are immediate working relationships.

Members of family. Blood and in-law relatives (such as by marriage or adoption) who are residents of the employee's household.

Recipient. One who has applied for or received FmHA financial assistance in the form of a loan or grant. See definition of applicant or borrower.

§ 1900.153 Identification and reporting of cases.

(a) *Responsibility of applicant.* When an application for assistance is filed, the processing official asks the applicant whether there is any relationship or association identified in the definitions, with any FmHA employee. If there is, the processing official completes part 1 of exhibit A of this subpart, "Request for Special Handling and Designation of Authorized Officials for Processing and Servicing FmHA Assistance to Employees, Relatives and Associates," (available in any FmHA office) and submits it to the State Office for a determination by the State Director whether special handling is required. Application processing will continue normally, up to but not including the eligibility determination, or until notified otherwise by the State Director.

(b) *Responsibility of employee.* An FmHA employee who knows of any relationship or association with a recipient which may constitute the appearance of or an actual conflict of interest or which might necessitate the application of the provisions of this subpart, regardless of whether the relationship or association is known to others, is required to notify the State Director in writing. Upon notification, the State Director directs the employee in possession of the file to submit part 1 of exhibit A of this subpart (available in any FmHA office). The State Director determines whether this subpart applies; however, an employee's request that the case receive special handling is generally honored.

(c) *Relationship/association established subsequent to FmHA assistance.* If a relationship or association is established after an application is filed or assistance is provided, it is the responsibility of both the recipient and the employee to notify the appropriate official. The official then submits part 1 of exhibit A of this subpart (available in any FmHA office) to the State Director for a determination of whether the provisions of this subpart shall apply.

(d) *Relationship/association with a State Director.* If the relationship/association is with a State Director, the notice is provided to, and the review, determination and designation is conducted by the Administrator.

(e) *Relationship/association with a State Office, Finance Office or National Office employee.* If the relationship/association is with a State Office, Finance Office or National Office employee, the notice is provided to, and the review, determination and designation is conducted by the State Director having jurisdiction in the area where the assistance is provided, with the written concurrence of the Administrator.

(f) *Dissolution of relationship/association or FmHA assistance.* If there is a dissolution of the relationship/association or the assistance is denied or otherwise terminated, the official having custody of the file requests the State Director, by submission of an amended part 1 of exhibit A of this subpart (available in any FmHA office), to review the situation and designate appropriate changes in the FmHA officials authorized to take action and/or offices where the file is to be maintained.

§ 1900.154 Determination of need for special handling.

The State Director reviews the reported relationship or association and, based on the provisions of § 1900.151(a) of this subpart, determines whether these provisions shall apply. The decision is documented and notice to the County Supervisor is provided on part II of exhibit A of this subpart (available in any FmHA office). If special handling is required, the State Director designates the official(s) authorized to process or service the assistance, in accordance with § 1955.155 of this subpart.

§ 1900.155 Designation of responsible authorized official and processing and/or servicing office location.

(a) The State Director designates a non-related FmHA official who has no potential for conflict of interest, whose duty station is most convenient to the recipient and to the property and who is authorized to conduct the activity. Guidance in making these designations is in Exhibit B of this subpart (available in any FmHA Office).

(b) For decisions to be made by a County Committee, if the recipient is a member, a different County Committee is designated. If the recipient is related or associated with the member, the State Director may permit the decision to be made by the local committee if the related/associated member abstains.

(c) The case number is changed or assigned to reflect the authorized processing or servicing office where the file is maintained.

§ 1900.156 Special handling of loan processing.

(a) *Receipt of application.* A completed exhibit A of this subpart (available in any FmHA office) is made a part of each application file. The receiving official notifies the applicant in writing of any special handling requirements and any other information related to the special processing and/or servicing of the applied-for assistance.

(b) *Verification of information.* The collection and verification of information needed for a complete application is conducted by the receiving official and/or office. The complete application is then forwarded, if necessary, to the designated loan/grant processing official who determines eligibility.

(c) *Eligibility determination.* The designated loan/grant processing official reviews the application for assistance and develops additional data as necessary. Upon determination of whether the assistance will be provided, the official notifies the applicant of the decision in writing, according to program regulations, subpart A of part 1910, and subpart B of part 1900 of this chapter. If the determination is favorable, the complete application is returned to the receiving office for continued processing. If the determination is unfavorable, the designated processing official as decision-maker participates in the appeal process to its conclusion.

(d) *Inspections.* Property inspection and/or appraisal is completed by the official designated by the State Director within the guidance of exhibit B of this subpart (available in any FmHA office).

(e) *Processing of loan/grant docket.* The collection of information necessary to complete loan/grant processing, with the exception of property inspection and/or appraisal, is conducted by the receiving office. The completed loan

docket is then forwarded to the designated approval official.

(f) *Approval of assistance.* The designated approval official will complete a certification for the file that the applicant has not been and will not be give any advantage because of the relationship or association with the FmHA employee as stated in exhibit A of this subpart (available in any FmHA office), and that there is no conflict of interest.

(g) *Closing.* Unless there is a clear or apparent conflict of interest, closing (or settlement) will be at a location and by a closing agent chosen by the applicant. The closing agent is advised to forward the loan documents to the designated servicing official.

(h) *Supervised bank accounts.* Unless there is a clear or apparent conflict of interest, any necessary supervised bank account will be established at a banking institution chosen by the applicant. Countersignature authority is designated only to a non-related, non-associated FmHA employee.

§ 1900.157 Special handling of recipient case files.

Case files are maintained in the office of the official designated to approve the assistance or service the account.

(a) *Construction inspections.* Construction inspections are conducted by the authorized employee who has no potential conflict of interest, whose duty station is nearest the construction site. The designated servicing official notifies the builder in writing of how and from whom to request inspections.

(b) *Normal servicing.* Normal servicing of the account is conducted by the designated servicing official. Normal servicing includes interest credit reviews, limited resource reviews, tax and insurance reminders, chattel inspections, graduation reviews, etc.

(c) *Default servicing.* If a recipient is in default of a loan or grant agreement, the servicing official advises the State Director and requests a determination of whether the designation of a default servicing official is appropriate. If, based on the relationship or association and the nature of the default, the State Director determines it necessary, a default servicing official is designated. Upon notice of the designation of a default servicing official, the normal servicing official makes any appropriate change of case number and transfers the file to the designated official. If the normal servicing of an account is handled by a colleague of equal grade, default servicing should be deferred to a colleague of higher grade who is not in an immediate working relationship with the employee. For example, if a loan made to a County Supervisor is normally serviced by a neighboring County Supervisor, the default servicing official should be a neighboring District Director.

§ 1900.158 County, District, and State Office records.

(a) Upon receipt of a case file from a transferring office, the designated official reviews and verifies the documentation and all previous actions for accuracy and conformance to procedure.

(b) The County, District and State Office will maintain records of the designations affecting their areas.

§ 1900.159 Finance Office records.

(a) The Finance Office identifies special handling cases on processing and servicing reports, in accordance with an automated system to be developed.

(b) An annual report is provided to each State Office containing recipients' name, case number, fund code and relationship code, with a summary report to the National Office, by October 1 of each year.

§ 1900.160 Review and reporting functions.

(a) *Post closing (settlement) review.* Each case requiring special handling is reviewed at the State Office, or National Office if appropriate, after the loan or grant closing.

(b) *Evaluation reviews.* The annual report provided by the Finance Office is used to assure that each loan or grant is reviewed on a regulator schedule, during program reviews and PRA Reviews is accordance with FmHA Instruction 2006–S (available in any FmHA office), and State Evaluation Reviews and National Office Coordinated Assessment Reviews in accordance with FmHA Instruction 2006–M (available in any FmHA office), to determine that proper designations are made and processing and servicing action is taken.

(c) *Findings of deviations.* Inappropriate designations are corrected when they are identified and the case is reviewed by the appropriate designated employee for any corrective action.

(d) *Unauthorized assistance.* Unauthorized assistance is handled according the subparts L, M, N, and O of part 1951 of this chapter.

§ 1900.161 State supplements.

State supplements to this subpart will not be issued, except for necessary references within authorized State supplements to program regulations

§§ 1900.162–1900.200 [Reserved]

PART 1901—PROGRAM RELATED INSTRUCTIONS

3. The authority citation for part 1901 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Loan and Grant Approval Authorities

4. Section 1901.2 is amended by adding a new sentence following the first sentence to read as follows:

§ 1901.2 Policy.

* * * Assistance to FmHA employees, members of their families, close relatives or business or close personal associates is subject to the provisions of subpart D of part 1900 of this chapter.* * *

PART 1910—GENERAL

5. The authority citation for part 1910 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C.301; 7 CFR 2.23 and 2.70.

Subpart A—Receiving and Processing Applications

6. Section 1919.3 is amended by adding paragraph (a)(6) to read as follows:

§ 1910.3 Receiving applications.

* * * * *

(a) * * *

(6) Applicants are requested to identify any relationship or association with an FmHA employee when completing the application. If the response is affirmative, the processing official completes part 1 of exhibit A of subpart D of part 1900 of this chapter.

* * * * *

7. Section 1910.4 is amended by adding a new sentence at the end of the introductory text to read as follows:

§ 1910.4 Processing applications.

* * * Applications of FmHA employees, members of their families, close relatives or business or close personal associates are processed according to subpart D of part 1900 of this chapter.

* * * * *

PART 1944—HOUSING

8. The authority citation for part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

9. Section 1944.39 is revised to read as follows:

§ 1944.39 RH loans to FmHA employees and loan closing officials.

FmHA employees, County Committee members, and loan-closing officials, or members of their families may obtain a Section 502 RH loan subject to the provisions of this subpart and the following conditions:

(a) Written evidence indicating the applicant's inability to obtain the needed credit elsewhere will be included in the application.

(b) Applications will be processed and loans will be serviced according to Subpart D of Part 1900 of this chapter.

(c) Loans, credit sales or assumption agreements will not be approved under this authority for any of the following purposes:

(1) Purchase of inventory property.

(2) Purchase of a dwelling from an RH borrower.

(3) Purchase of FmHA security property being sold at foreclosure sale.

Dated: May 11, 1990.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 90-15696 Filed 7-6-90; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[IA-41-89]

RIN 1545-AN42

Returns Relating to Cash in Excess of $10,000 Received in a Trade or Business

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the rules and regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations to provide rules relating to the reporting of cash in excess of $10,000 received in a trade or business. These regulations enable law enforcement authorities to ascertain the magnitude of large transfers of cash with respect to the same transaction. The regulations affect trades or businesses that are currently required to report large receipts of cash. The text of the temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: These amendments are proposed to be effective for amounts received after December 31, 1989. Comments and requests for a public hearing must be received by September 7, 1990.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:TR (IA-41-89), room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Philip W. Scott, 202-566-3826 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments concerning the accuracy of the burden estimate and suggestions for reducing the burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

The collection of information in this regulation is in § 1.6050I-1. This information is required by the Internal Revenue Service to ascertain the magnitude of transfers of large amounts of cash. This information will be used by law enforcement authorities with respect to the enforcement of federal and state laws. The likely respondents are business or other for-profit institutions and nonprofit institutions.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances.

Estimated total annual reporting burden: 7,489 hours. The estimated average annual burden per respondent is 18 minutes.

Estimated number of respondents: 8,300.

Estimated annual frequency of responses: 3.

Background

The temporary regulations published in the Rules and Regulations portion of this issue of the **Federal Register** add a new temporary regulation § 1.6050I-1T to part 1 of title 26 of the Code of Federal Regulations. The temporary regulations require a person who currently must report the receipt of cash in excess of $10,000 with respect to a transaction to also make a report each time subsequent cash payments received within a one-year period with respect to the same transaction or a related transaction aggregate an amount in excess of $10,000. For the text of the new temporary regulations, see T.D. 8304 published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the regulations.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably an original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Internal Revenue Service by any person who also submits written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Philip W. Scott of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the Service and Treasury Department participated in their development.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 90-15086 Filed 7-6-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219-AA10

Electrical Safety Standards for Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Extension of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending the period for public comment regarding the Agency's electrical safety standards for underground coal mines.

DATES: Written comments must be received on or before September 14, 1990.

ADDRESSES: Send comments to the Office of Standards, Regulations, and Variances, MSHA, room 631, Ballston Towers No. 3, 4015 Wilson Boulevard, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION: On December 4, 1989, MSHA published a proposed rule (54 FR 50062) to revise the electrical safety standards for the underground coal mining industry. The comment period was scheduled to close on March 9, 1990 but in response to several requests from the mining community, the Agency extended the comment period to August 10, 1990 (55 FR 5858, February 20, 1990). Because of the complexity of the proposed rule, commenters have requested additional time to prepare their comments. All interested parties are encouraged to submit comments prior to September 14, 1990.

Dated: June 29, 1990.

John B. Howerton,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 90-15738 Filed 7-6-90; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Montana Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Montana Permanent regulatory program (hereinafter, the "Montana program") under the Office of Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to revegetation rules. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards, incorporate the additional flexibility afforded by the revised Federal regulations and improve operational efficiency.

This notice sets forth the times and locations that the Montana program and proposed amendments to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., m.d.t. August 8, 1990. If requested, a public hearing on the proposed amendment will be held on August 3, 1990. Requests to present oral testimony at the hearing must be received by 4 p.m., m.d.t. on July 18, 1990.

ADDRESSES: Wrtten comments should be mailed or hand delivered to the E.E. Filer, Acting Director, Casper Field Office at the address listed below.

Copies of the Montana program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

E.E. Filer, Acting Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Room 2128, Casper, WY 82601-1918, Telephone: (307) 261-5776

Gary Amestoy, Administrator, Department of State Lands, Reclamation Division, Capitol Station, 1625 Eleventh Avenue, Helena, MT 59620, Telephone: (406) 444-2074

FOR FURTHER INFORMATION CONTACT:

E.E. Filer, Acting Director, Casper Field Office, telephone number (307) 261-5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Montana Program

On April 1, 1980, the Secretary of the Interior conditionally approved the Montana program. General background information on the Montana program including the Secretary's findings and the disposition of comments can be found in the April 1, 1980 **Federal Register** (45 FR 21560). Subsequent actions concerning the Montana program and program amendments c be found at 30 CFR 926.15 and 926.16.

II. Proposed Amendment

By letter dated June 19, 1990 (Administrative Record No. MT-6-01) Montana submitted a proposed amendment to its program pursuant to SMCRA. Montana submitted the proposed amendment in response to a letter dated July 2, 1985 (Administrative Record No. MT-5-44) sent by OSM in accordance with 30 CFR 732.17(d) requiring certain provisions of the State program to be updated for consistency with the Federal regulations and to fulfill certain State initiated requirements.

The regulations that Montana proposes to amend are: Administrative Rules of Montana (ARM) 26.4.724, Use of Revegetation Comparison Standards; ARM 26.4.725, Periods of Responsibility; ARM 26.4.726, Vegetation Production, Cover Diversity, Density and Utility Requirements; ARM 26.4.728, Composition of Vegetation; ARM 26.4.730, Season of Use; ARM 26.4.731, Analysis for Toxicity; ARM 26.4.732, Vegetation Requirements for Previously Cropped Areas; ARM 26.4.733, Measurement Standards for Trees, Shrubs, and Half-shrubs; and ARM 26.4.1301A, Modification of Existing Permits: Issuance of Revisions and Permits.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Montana program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in

this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4 p.m., m.d.t. on July 18, 1990. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at a public hearing, a hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one persons requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed under "FOR FURTHER INFORMATION CONTACT". All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "ADDRESSES". A written summary of each meeting will be made a part of the administrative record.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 29, 1990.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 90-15798 Filed 7-6-90; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50571A; FRL-3773-9]

Certain Aromatic Ether Diamines; Proposed Significant New Uses of Chemical Substances; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: In response to a request by an interested party, EPA is extending the comment period for the proposed significant new use rule (SNUR) on certain aromatic ether diamines, published in the **Federal Register** of May 30, 1990, issued under section 5(a)(2) of the Toxic Substances Control Act (TSCA).

DATES: Written comments on the proposed rule must be submitted to EPA by July 30, 1990.

ADDRESSES: Since some comments may contain confidential business information (CBI), all comments must be sent in triplicate to: TSCA Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M St., SW., Washington, DC 20460.

Comments should include the docket control number OPTS-50571. Nonconfidential comments on the proposed rule will be placed in the rulemaking record and will be available for public inspection. Unit XI of the preamble of the proposed rule contains additional information on submitting comments containing CBI.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 30, 1990 (55 FR 21887), EPA proposed a SNUR on certain substances generically referred to as aromatic ether diamines. In the proposed SNUR, a 30-day comment period was provided for. In response to a request by an interested party, EPA is extending the comment period by 30 days. Comments will be accepted until July 30, 1990.

Dated: June 28, 1990.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc 90-15804 Filed 7-6-90; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 90-194]

Hearing Reform

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes revised rules to expedite its comparative hearing process for new applicants in order to speed service to the public.

DATES: Comments are due on or before August 27, 1990, and reply comments are due on or before September 26, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Martin Blumenthal, Office of General Counsel, Federal Communications Commission, (202) 254-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, adopted May 10, 1990. FCC 90-194. The full text of this Commission Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street NW., Washington, DC. The full text of this Notice of Proposed Rule Making may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037, (202) 857-3800.

TITLE: PROPOSALS TO REFORM THE COMMISSION'S COMPARATIVE HEARING PROCESS TO EXPEDITE THE RESOLUTION OF CASES

Summary of Policy Statement and Order

1. During the process by which the Commission selects among mutually exclusive applicants for new broadcast facilities the public is deprived of a valued service and the ultimate licensee is deprived on the opportunity to provide that service. Thus, delay in that process greatly disserves the public. Our review of recent hearing cases indicates that the average case prosecuted from designation for hearing (HDO), through a hearing, an Initial Decision (ID), a Review Board Decision, and a

Commission decision takes almost three years to complete. We believe that there are a number of procedural and organizational strategies that will reduce the amount of time consumed by this process, perhaps as much as two-thirds.

Encouraging Settlements

2. Settlements are a significant factor in expediting the hearing process. When a case is settled, service to the public is expedited, and Government resources that would have been devoted to the resolution of that case can be turned to the resolution of those cases that remain. Currently, the overwhelming majority of cases are settled before going through the entire hearing process. Our obvious objective should be to encourage even more cases to settle and to do so as early in the process as possible.

3. Of the cases disposed of by the ALJs in FY 1989, approximately 20% involved settlements that were approved within three months of assignment of the case to a judge. Practitioners consistently point to the hearing fee as a primary reason for early settlements.[1] Under current rules, the fee must be paid with an applicant's notice of appearance, filed 20 days after the mailing of the designation order, but that fee is waived where the applicants file a full settlement by the notice of appearance deadline. 47 CFR 1.221, 1.1111(c). We believe that requiring payment of the hearing fee prior to the issuance of the HDO would be preferable. To this end, we propose to amend 47 CFR 1.221 to require the filing of the notice of appearance and fee before the release of the HDO. Under this procedure, the staff would notify applicants (approximately 30, 60, or more days before the HDO is to be issued) of the date for filing notices of appearance and the hearing fee. The applicants would have at least 30 days to assess their position and conclude any pre-designation settlements before the fee was due. If a full settlement is reached prior to designation, no fee would be due, but, where a full settlement is not reached and filed on or before the notice of appearance deadline, any applicants that fail to pay the fee would be dismissed prior to designation.

4. That same pre-designation notice or a separate notification from a "settlement advocate" could also be used to encourage applicants to settle the case before the HDO. The settlement advocate could also encourage applicants to consider mergers by which the need for a comparative hearing could be eliminated, or, the number of applicants could be reduced. We also propose that amendments reflecting mergers between pending mutually exclusive broadcast applications would be filed as a matter of right under 47 CFR 73.3522. Even where the merger involves less than all the mutually exclusive applicants, it would reduce the number of applications designated for hearing, and thereby simplify the ultimate resolution of the case. To encourage mergers, we will consider proposals to modify that policy to permit the merged applicant to enjoy the comparative advantages achieved by virtue of the merger. Commenters should also address whether the pre-designation settlement process would be enhanced by requiring all pending applicants that have not supplied the additional information on financing and integration proposals now required by FCC Form 301 to provide that information in an amendment to their applications.[2]

5. We also seek comment on means to encourage more settlements after designation but before trial. Although ALJs commonly use pre-hearing conferences as a vehicle to explore settlements, we believe that the efficacy of ALJ-aided settlement discussions would be significantly improved if such conferences occurred just before trial, a time when the parties naturally consider the possibility of an amicable resolution of the case. Moreover, such settlement conferences may be more efficacious if they were conducted "off the record" before a "settlement judge." *See* Joseph and Gilbert, *Breaking the Settlement Ice: The Use of Settlement Judges in Administrative Proceedings*, 24–26 (1988). We also propose to add monetary incentives to the settlement judge process. The question of how much an applicant should be paid in a settlement is being addressed in *Amendment of § 73.3525 of the Commission's Rules Regarding Settlement Agreements Among Applicants for Construction Permits*, 5 FCC Rcd. ____ (adopted April 12, 1990). In this proceeding, we propose to provide added impetus to post-designation settlements, by amending 47 CFR 1.1111(c) to permit a settlement judge to recommend a refund of up to half the hearing fee in cases that are settled in this manner.

6. In *Ruarch Associates*, 103 FCC 2d 1178 (1986), the applicant had committed itself to divest a co-owned station to avoid a comparative demerit. In approving the settlement, the Commission relieved the applicant of that commitment. Since then, *Ruarch* has stood for the policy that settlements extinguish the continuing validity of integration, as well as divestiture commitments that had been made during the comparative hearing process. *See WCVQ, Inc.*, 4 FCC Rcd. 4079 (Rev. Bd. 1989) *application for review pending.* We invite comment on possibly reversing *Ruarch Associates* and its progeny. We also seek comment on appropriate means to ensure the future adherence to promises made in applications for purposes of enhancing an applicant's comparative standing under diversity and integration criteria.

Expediting the Hearing Process

7. Generally, discovery does not begin until the filing of notices of appearance (20 days after mailing the HDO), and, in many cases, little is accomplished between the HDO and the first pre-hearing conference. We believe that this "dead time" can be put to productive use. Our proposal to require the filing of the notice of appearance and hearing fee before issuance of the HDO will permit the commencement of discovery immediately upon the release of the HDO, and, under the proposal, we propose to use the HDO to establish the immediate commencement of discover and a firm date for its conclusion. We also propose to use the HDO to set out a schedule for the early phases of the hearing, including the assignment of the presiding ALJ and the establishment of firm dates for the exchange of direct written cases. In this regard, we propose to revisit the issue of whether to accept certain 1979 proposals to strictly limit discovery and shorten the time during which discovery can take place.[3] Specifically, we believe that it would be reasonable to conclude the discovery portion of comparative cases within 60 days after issuance of the HDO. In the alternative, appropriate amendments to Part 1 of the Commission's rules could establish these procedural dates by rule. We also seek comment on whether we should limit the discovery tools available to the parties.

[1] With the implementation of the 1989 amendment to 47 U.S.C. 158, Public Law No. 101–239, 103 Stat. 2106 (December 19, 1989), the hearing fee will be increased to $6,760.

[2] The earlier provision of that information may also expedite the discovery portion of the case.

[3] *See Amendment of Part I, Rules of Practice and Procedure to Provide for Certain Changes in the Commission's Discovery Procedures in Adjudicatory Hearings*, 52 RR 2d 913 (1982); Paglin, Report on Evaluation of the Federal Communications Commission's Discovery Procedures in Adjudicatory Hearings (1980).

8. In *Anax Broadcasting, Inc.*, 87 FCC 2d 483 (1981), the Commission allowed applicants to exclude limited partners (and the owners of non-voting stock) from the calculus by which it determines the comparative credit for integration of ownership and management (as well as for diversity). *Anax* was not specifically designed to foster female and minority ownership, but it has had that effect by enabling these individuals to use the financial backing of others without detracting from the applicant's comparative status. We recognize that the *Anax* policy serves to increase the number of financially qualified applicants before the Commission, but it has also spawned considerable litigation over the *bona fides* of such applications. This litigation in turn often significantly delays the issuance of final decisions and the institution of service to the public. Thus, we propose to overturn the policy and treat all ownership interests equally for purposes of determining the comparative standing of applicants. We also seek comment on alternatives by which the litigation spawned by the *Anax* doctrine could be avoided while still preserving some of the comparative benefits achieved by applicants using the active/passive ownership structure.

9. We also proposed to require the use of written cases except in the most unusual circumstances. In considering applications for initial licenses, the Administrative Procedure Act permits the Commission to adopt procedures for the submission of all or part of the evidence in written form "when a party will not be prejudiced thereby. . . ." [4] In expedited major market cellular comparative cases, the Commission required both written direct and written rebuttal cases, and it required a specific showing to the presiding judge before parties could present oral testimony. In those cases, oral testimony was virtually eliminated, and the hearings were concluded in substantially less time than broadcast comparative proceedings.[5] Moreover, other agencies have experienced a considerable degree of success in shortening the duration of the administrative process by strictly limiting oral testimony at hearings. *See* Idles, *The ICC Hearing Process: a Cost-Benefit Approach to Administrative Agency Alternative Dispute Resolution,* 16 Transportation Law Journal 99 (1987). Therefore, practical experience indicates that the use of strictly written procedures can expedite the hearing process, and we propose to require the submission of written direct and rebuttal cases. Based on these proposals and the major market cellular experience, our goal is the resolution of routine comparative cases by ID within seven months of the HDO.

Expediting Review

10. As a companion to our proposal to resolve comparative hearing cases in seven months, we propose to resolve any appeals of those cases within six months of the ID. Currently, an A&J's initial decision can go through essentially two levels of extensive review, one by the Review Board and one by the Commission. We propose procedures and/or changes in the Commission's organizational structure intended to reduce substantially the time during which a case is pending on appeal within the Commission. Earlier proposals to eliminate the Review Board have been rejected because, although eliminating the Board would shorten the "adjudicatory chain," its continued presence frees the Commissioners to spend more time on policy-related matters, and approximately half of the Board's decisions are never appealed to the Commission. Nevertheless, we invite comment on the elimination of the intermediate level of review.

11. In the alternative, the internal appellate procedures could be reorganized while maintaining the two-tiered review system. The Review Board and its staff could be consolidated with the staff that prepares adjudicatory decisions for the Commission. Such a consolidation of functions would achieve important time savings without counterbalancing sacrifices by allowing the FCC to assign one staff member to handle a case from the release of the ALJ's initial decision all the way through to a Commission decision. In addition to the proposed relocation of the Board as it is presently constituted, we will also consider disbandment of the present Board and assigning the intermediate review function to employees in the Office of General Counsel.

12. Regardless of whether we retain a two-tier system of review, we propose to limit oral argument before the Review Board and the Commission to cases involving extraordinary circumstances. We believe that elimination of oral argument in most hearing cases would significantly expedite the review process. The Commission's rules currently require the Review Board to adopt a decision within 180 days after release of an ID. We propose to adopt internal guidelines establishing a goal of issuing final agency decisions in these comparative cases within six months of the IDs.

13. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* presentations are permitted except during the Sunshine Agenda period. *See generally* 47 CFR 1.1206 *et seq.* The Sunshine Agenda period commences with the release of a public notice that a matter has been placed on the Sunshine Agenda, and terminates when the Commission (1) Releases the text of a decision or order in the matter, (2) issues a public notice stating that the matter has been deleted from the Sunshine Agenda, or (3) issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first. 47 CFR § 1.1202(f). During the Sunshine Agenda period, no presentations, *ex parte* or otherwise, are permitted unless specifically requested by the Commission or staff for the clarification or adduction of evidence or the resolution of issues in the proceeding. 47 CFR 1.1203.

14. In general, an *ex parte* presentation is any presentation directed to the merits or outcome of the proceeding made to decision-making personnel which (1) If written, is not served on the parties to the proceeding, or (2), if oral, is made without advance notice to the parties to the proceeding and without opportunity for them to be present. Section 1.1202(b). Any person who makes or submits a written *ex parte* presentation shall provide on the same day it is submitted two copies of same under separate cover to the Commission's Secretary for inclusion in the public record. The presentation (as well as any transmittal letter) must clearly indicate on its face the docket number of the particular proceeding(s) to which it relates and the fact that two copies of it have been submitted to the Secretary, and must be labeled or captioned as an *ex parte* presentation.

15. Any person who in making an oral *ex parte* presentation presents data or arguments not already reflected in that person's written comments, memoranda, or other previous filings in that proceeding shall provide on the day of the oral presentation an original and one copy of a written memorandum to the Secretary (with a copy to the

[4] 5 U.S.C. 556(d). *See also* 47 CFR 1.248; *Amendments of Parts 0 and 1 of the Commission's Rules with Respect to Adjudicatory Re-Regulation Proposals,* 58 FCC 2d 865 (1976).

[5] In the cellular cases, the average time from HDO to ID was 11 months as compared with 17 months in broadcast comparative cases.

Commissioner or staff member involved) which summarizes the data and arguments. The memorandum (as well as any transmittal letter) must clearly indicate on its face that an original and one copy of it have been submitted to the Secretary, and must be labeled or captioned as an *ex parte* presentation, § 1.1206.

16. Pursuant to applicable procedures set forth in 47 CFR 1.415 and 1.419, interested parties may file comments on or before August 27, 1990 and reply comments on or before September 26, 1990. Extensions of these time periods are not contemplated. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

17. The rules proposed herein have been analyzed with respect to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520, and found to impose no new or modified requirements or burdens on the public.

18. Initial Regulatory Flexibility Analysis

I. Reason for the Action

To consider proposals to expedite the resolution of comparative hearings involving applicants for new broadcast facilities.

II. Objective of this Action

To expedite the resolution of comparative hearings involving applicants for new broadcast facilities.

III. Legal Basis

This proceeding is initiated under sections 5(b), 5(c) and 309 of the Communications Act of 1934, as amended.

IV. Number and Type of Small Entities Affected by the Proposed Rule

Applicants for available new broadcast facilities are, for the most part small entities. Presently, the Commission has pending approximately 3,000 such applications that may, upon designation for hearing, come under the rules proposed herein.

V. Reporting, Recordkeeping, and Other Compliance Requirements Inherent in the Proposed Rule

None.

VI. Federal Rules Which Overlap, Duplicate, or Conflict with the Proposed Rule

None.

VII. Any Significant Alternative Minimizing Impact on Small Entities and Consistent With the Stated Objective of the Action

Because the proposal would expedite the resolution of comparative broadcast hearings for new applicants, it will generally permit the successful applicant to commence operation of the new station at an earlier date. Thus, the applicants, generally small entities, will be benefited by the proposal. The Commission is also open to any other suggestions to fulfill its goal of expediting the comparative hearing process with a minimum of cost or inconvenience to applicants.

19. *It is ordered* that a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

20. This action is taken pursuant to authority contained in sections 5(b), 5(c) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. 155(b), 155(c) and 309.

For further information concerning this proceeding, contact Martin Blumenthal, Office of General Counsel (202) 254–6530.

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies).

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 73

Radio broadcasting and Television broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–15841 Filed 7–6–90; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 900643–0143]

RIN 0648–AC97

Snapper-Grouper Fishery of the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA proposes to establish a special management zone (SMZ), covering 2 square nautical miles (6.86 km^2), around an artificial reef (AR) at Key Biscayne Artificial Reef Site (Site H), which is located in the exclusive economic zone (EEZ) off Dade County, Florida (County). Within the SMZ, fish trapping, bottom longlining, spearfishing, and all harvesting of jewfish would be prohibited. The intended effect is to promote orderly use of the fishery resources on and around the AR, to reduce potential user-group conflicts, to maintain the intended socioeconomic benefits of the AR to the maximum extent practicable, and to maintain and promote conservation.

DATES: Comments on the proposed rule must be received on or before August 8, 1990.

ADDRESSES: Comments on the proposed rule and requests for copies of the draft regulatory impact review should be sent to Rodney C. Dalton, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Rodney C. Dalton, 813–893–3722.

SUPPLEMENTARY INFORMATION:

Background

Snapper-grouper species of the South Atlantic coast of the United States are managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR part 646, under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Section 10.17 of the FMP provides for designation of ARs as SMZs following Council recommendation to the Director, Southeast Region, NMFS (Regional Director).

An AR creates fishing opportunities that would not otherwise exist, and may

increase biological production. The cost of constructing and maintaining an AR can be substantial, and its intended socioeconomic benefits (*e.g.*, recreational fishing, tournaments, or sport diving) can be reduced or eliminated if highly efficient fishing gear and fishing practices are not restrained. Therefore, the possibility of establishing an SMZ around an AR can act as an incentive for the consturction of the AR.

Site H is located in the EEZ off Miami and covers an area of 2 square nautical miles (6.86 km^2). The County holds a Corps of Engineers permit for the site and has managed it since 1977. The County expressed concerns about the use of fish traps and bottom longlines in the area surrounding the site and about diver safety problems resulting from spearfishing, and, pursuant to § 10.17 of the FMP, requested the Council to recommend to the Director, Southeast Region, NMFS, that an SMZ be designated around the site, in which the use of fish traps, bottom longlines, and power-assisted spearguns and power-heads would be prohibited. The Council subsequently recommended designation of an SMZ, but recommended a broader prohibition, including all types of spearfishing and all harvesting or possession of jewfish. Considering the large number of sport divers using the site, the Council concluded that any spearfishing would jeopardize diver safety and that spearfishing would reduce significantly the number of large predator fish (*e.g.*, snappers and groupers) available to other users.

The recommendation to prohibit any harvest of jewfish was based on the fact that jewfish are unique, rather rare, but important inhabitant of ARs. The Council determined that protecting jewfish for the continuing aesthetic enjoyment by the large number of sport divers using Site H would be more beneficial than allowing harvest by only a few individuals. The County concurred with the Council's expansion of the prohibitions.

Because of concern about jewfish mortality, all harvest or possession of jewfish in or from the EEZ off the South Atlantic states has been prohibited through emergency regulations published on May 7, 1990 (55 FR 18893); the emergency regulations are effective through July 31, 1990, and may be extended for another 90 days. The Council is also working on Amendment 2 to the FMP, which would prohibit the harvest or possession of jewfish in the EEZ.

Evaluation of SMZ Status

In accordance with § 10.17 of the FMP, a monitoring team appointed by the Council issued a report evaluating the County's request, with the expanded prohibitions, in consideration of the following criteria: (1) Fairness and equity; (2) promotion of conservation; and (3) prevention of excessive shares. The report also considered (1) Consistency with the objectives of the FMP, the Magnuson Act, and other applicable law, (2) the natural bottom in and surrounding the proposed SMZ, and (3) impacts on historical uses. The Council's evaluation of those criteria as they apply to this SMZ request follows.

Fairness and Equity. Approximately five commercial fish trap boats from the Ft. Lauderdale, Florida, area fish within the general area surrounding Site H. One boat generates 100 percent of its annual income from fish trappng in the general area, which consists of 28 square nautical miles (96.04 km^2) around and including Site H; the other four boats use fish traps on a part-time basis in that area. Approximately 440 traps are fished in the general area. Catch records supplied by trap fishermen for the years 1978 through 1985 resulted in an estimated average annual commercial catch of 167,331 pounds (75,901 kg). No official information exists on the number of bottom longlines used in this area.

Recreational usage data, based on a 1985 survey, indicate that 19,281 fishing days and 14,028 diving days occurred at Site H during that year. The 1985 survey also collected some information about catches, but did not provide species-specific estimates, nor did it differentiate between fish caught and kept, versus those caught and released. This information was used by Council staff to estimate a recreational catch (including all species) from Site H of between 333,176 and 444,234 pounds (151,129 and 201,505 kg).

The Council thinks it fair that those who pay a major portion of expenses for construction and maintenance of ARs should have some say as to how the ARs are used, especially if one assumes that fish populations around the ARs would not have existed without the ARs. This latter assumption has not been scientifically validated, however. Fairness could also be achieved by allowing gear types prohibited at certain SMZs to be used around other ARs, or perhaps by building new ARs designated only for use of those gears, as has been done in Japan.

The use of fish traps in the snapper-grouper fishery is subject to a number of existing restrictions. The FMP prohibits fish trapping inside the 100-foot (30.5-m) contour south of Fowey Rocks Light off Miami. Fish trapping and bottom longlining are also prohibited in waters under Florida's jurisdiction and in Biscayne National Monument and John Pennekamp Coral Reef State Park in southeastern Florida. The Council concluded that prohibiting fish traps within Site H would not have a significant negative impact on the affected fishermen, because Site H represents only about 3 percent of the remaining area available for fish trapping. Because most species that inhabit the site probably depart the site at some point in their life history, designaing Site H as an SMZ would not necessarily preclude trap fishermen fishing outside the boundaries of the SMZ from access to the same stocks fished by recreational fishermen inside the SMZ.

Although there is only limited information indicating that any of the prohibited gear types has created a problem, it is known that these gear types can create problems around ARs. The Council determined that designating Site H as an SMZ is consistent with the FMP objective to "promote orderly use of the resource."

Promotion of Conservation. SMZs around ARs may promote conservation of fish stocks by allowing a refuge from trap fishing and bottom longlines. These areas could promote growth and spawning of stocks, assuming that hook-and-line fishing is not as effective at harvesting snappers and groupers as are fish traps and bottom longlines. However, if they substantially concentrate fish, ARs may increase exploitation of fish stocks.

Given the paucity of information available, it is difficult to address conservation in the biological sense, but the national standard guidelines indicate that this criterion can also be met by "encouraging a fational, more easily managed use of the resource" or by "optimizing yield in terms of . . . economics or social benefits of the product." The Council determined that establishment of an SMZ at Site H would meet these criteria.

Prevention of Excessive Shares. The Council concluded that fish-trap and bottom-longline fishermen have the potential to remove more than their fair share of the snapper-grouper stocks and that designating Site H as an SMZ would alleviate this inequity. Further, the Council concluded that prohibiting these gear types and spearfishing would not result in the allocation of an excessive share to users of non-prohibited gear. As noted above, Site H represents only about 3 percent of the area available for fish trapping.

Consistency With objectives of the FMP, the Magnuson Act, and Other

Applicable Law. The Council concluded that this request, as modified, is consistent with the objectives of the FMP, the Magnuson Act and other applicable law.

Natural Bottom in and Surrounding the Area. Site H is located on a relatively narrow continental shelf and includes natural hard-bottom areas within the permitted site. The Council recognizes this and concluded that the SMZ should be approved, even though natural hard bottom is included within the SMZ area.

Historical Uses. Commercial fishing has been conducted off the shelf waters of southern Florida since at least the late 1800's. Although small numbers of fish traps have been fished off southern Florida since at least 1919, the number of traps fished increased substantially only after 1976, when U.S. fishermen could no longer fish Bahamian waters. Significant commercial use of wire fish traps and bottom longlines in Florida has been a more recent activity, beginning in the mid 1970's and late 1970's, respectively. Available information indicates that one fish trapper began fishing in this general area in 1946, and another began in 1978. According to the County, work on AR Site H began in 1971.

After consideration of all relevant information, including the evaluation criteria, supporting data, and comments received during public hearings, committee meetings, and Council meetings, the Council approved the County's SMZ request with modifications to prohibit all spearfishing (power-assisted spearguns, power heads, Hawaiian sling, spear, pole-spear, etc.) and to prohibit the possession of jewfish or harvest of jewfish by any type of gear. The Regional Director concurs with this decision.

Request for Comments

Because establishment of this SMZ would prohibit certain gear and activities within the proposed boundaries, thus altering usage of approximately 2.0 square nautical miles (6.86 km^2) of ocean bottom, the public is asked to pay particular attention to possible impacts of the proposed action on historical users of the area and to the potential changes in fishing opportunities for recreational and commercial fishermen and divers within the proposed SMZ.

Classification

At this time, the Secretary of Commerce (Secretary) has not determined that the proposed action is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Under Secretary for Oceans and Atmosphere, NOAA, determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. This rule, if adopted, is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Council prepared a draft regulatory impact review (RIR) for this action. According to the RIR, Site H currently has a total recreational value to boaters of more than $75,000. If Site H is designated an SMZ, the hook-and-line fishermen who use the site will have gains from the exclusion of other users from the site. The excluded users and seafood consumers will experience losses. The Council has concluded that the sum of the gains and losses will result in increased value of Site H, if designated an SMZ. Copies of the draft RIR are available (see **ADDRESSES**).

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities because its impact would be limited to the few individuals who use gear proposed to be prohibited on Site H. Best available information indicates that five boats, four of which are part-time, fish with traps in the general area of Site H and there are unverified reports of a few individuals using bottom longlines on a part-time basis near the site. The affected individuals comprise an insignificant proportion of the small business entities in the snapper-grouper fishery. Further, the SMZ constitutes an extremely small portion (about 3 percent) of the available fishing grounds.

These measures are part of a Federal action for which an environmental impact statement (EIS) was prepaed. The final EIS for the FMP was filed with the Environmental Protection Agency and the notice of availability was published on August 19, 1983 (48 FR 37702).

The Council determined that this rule does not directly affect the coastal zone of any state with an approved coastal zone management program. A letter was sent to Florida, the only state involved, advising of this detetrmination.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 2, 1990.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 646 is proposed to be amended as follows:

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

1. The authority citation for part 646 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 646.24, a new paragraph (a)(22) is added and paragraph (c)(3) is revised to read as follows:

§ 646.24 Area limitations.

(a) * * *

(22) *Key Biscayne/Artificial Reef—H.* The area is bounded on the north by 25°42.82' N. latitude; on the south by 25°41.32' N. latitude; on the east by 80°04.22' W. longitude; and on the west by 80°05.53' W. longitude.

* * * * *

(c) * * *

(3) In the SMZs specified in paragraphs (a)(20) and (a)(22) of this section, the use of spearfishing gear is prohibited.

[FR Doc. 90-15786 Filed 7-6-90; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 55, No. 131
Monday, July 9, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 90-112]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit to Field Test Genetically Engineered Alfalfa Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to Pioneer Hi-Bred International, Inc., to allow the field testing in Johnston, Iowa, of alfalfa plants genetically engineered to express a gene from alfalfa mosaic virus (AMV) which encodes for the capsid coat protein of AMV. The assessment provides a basis for the conclusion that the field testing of these genetically engineered alfalfa plants will not present a risk of introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Quentin B. Kubicek, Biotechnologist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612. For copies of the environmental assessment and finding of no significant impact, write Mr. Clayton Givens at this same address. The environmental assessment should be requested under permit number 90-114-01. Permit number 90-114-01 is a renewal of permit number 89-136-01, issued August 11, 1989.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and relates into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906, June 16, 1987).

Pioneer Hi-Bred International, Inc., of Johnston, Iowa, has submitted an application for a permit for release into the environment, to field test alfalfa plants genetically engineered to express a gene from alfalfa mosaic virus (AMV) which encodes for the capsid coat protein of AMV. The field trial will take place in Johnston, Iowa.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the alfalfa plants under the conditions described in the Pioneer Hi-Bred International, Inc., application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact, which are based on data submitted by the Pioneer Hi-Bred International, Inc., as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. The virus coat protein gene of alfalfa mosaic virus strain 425 Madison has been inserted into an alfalfa chromosome. The expression of this gene provides resistance of alfalfa mosaic virus. In nature, genetic material contained in a chromosome of these plants is transferred to another sexually compatible plant by cross-pollination. In this field trial, no introduced gene can spread to another plant by cross-pollination, because the genetically engineered alfalfa plants will be mowed to prevent flower formation. Thus, no pollen will be produced by any alfalfa plant in this experiment.

2. Neither the coat protein gene itself, nor its gene product confers on alfalfa any plant pest characteristic.

3. The vector used to transfer the coat protein gene to alfalfa plant cells has been evaluated for its use in this specific experiment and does not pose a plant pest risk in this experiment. The vector, although derived from the DNA of a tumor inducing (Ti) plasmid with known plant pathogenic potential, has been disarmed; that is, genes that are necessary for pathogenicity have been removed from the vector. The vector has been tested and shown not to be pathogenic to any susceptible plant.

4. The vector agent *Agrobacterium tumefaciens*, a phytopathogenic bacterium, was used to deliver the vector DNA and the cost protein gene into alfalfa plant cells. The vector agent has been chemotherapeutically eliminated and shown by *in vitro* and *in vivo* assays to be no longer associated with any regenerated alfalfa plant.

5. Horizontal movement or gene transfer of the coat protein gene is not possible. The vector acts by delivering and inserting the gene into an alfalfa chromosome (i.e., chromosomal DNA). The vector does not survive in or on any transformed alfalfa plant. No

mechanism for horizontal movement is known to exist in nature to move an inserted gene from a chromosome of a transformed plant to any other organism.

6. The size of the field test plot is small and located in a rural area on a private research farm.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1509), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, D.C., this 2nd day of July 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–15830 Filed 7–6–90; 8:45 am]

BILLING CODE 3410–34–M

[Docket No. 90–110]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit To Field Test Genetically Engineered Corn Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to BioTechnica Agriculture, Inc., to allow the field testing in Linn County, Iowa, of corn plants genetically engineered to contain marker genes. The assessment provides a basis for the conclusion that the field testing of these genetically engineered corn plants will not present a risk of the introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Catherine Joyce, Biotechnologist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD, 20782, (301) 436–7612. For copies of the environmental assessment and finding of no significant impact, write Mr. Clayton Givens at this same address. The environmental assessment should be requested under permit number 90–033–01.

SUPPLEMENTARY INFORMATION:

The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906, June 16, 1987).

BioTechnica Agriculture, Inc., of Cambridge, Massachusetts, has submitted an application for a permit for release into the environment, to field test corn plants genetically engineered to contain marker genes. The field trial will take place in Linn County, Iowa.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the corn plants under the conditions described in the BioTechnica Agriculture, Inc., application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact, which are based on data submitted by BioTechnica Agriculture, Inc., as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. Corn plants have been genetically engineered to contain marker genes. In nature, genetic material contained in a chromosome of these plants is transferred to another sexually compatible plant by cross-pollination. In this field trial, no introduced gene can spread to another plant by cross-pollination because the tassels will be removed from the plants before pollen is shed.

2. The marker genes were derived from microorganisms that are not considered plant pests and do not confer any plant pest characteristics on the recipient corn plants.

3. The marker genes do not provide the transformed corn plants with any measurable selective advantage over nontransformed corn plants in their ability to be disseminated or to become established in the environment.

4. Select noncoding regulatory regions derived from plant pests have been incorporated into the plant DNA but do not confer any plant pest characteristics on the transformed corn plants.

5. Horizontal movement of genetic material after insertion into the plant genome (i.e., into chromosomal DNA) has not been demonstrated. No mechanism is known to exist in nature to horizontally move an inserted gene from a chromosome of a transformed plant to any other organism.

6. The field test plot will be small, less than 0.5 acres.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1509), (3) USDA Regulations Implementing NEPA (7 CFR Part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, D.C., this 2nd day of July 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–15831 Filed 7–6–90; 8:45 am]

BILLING CODE 3410–34–M

[Docket 90-109]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit to Field Test Genetically Engineered Potato Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to the U.S. Department of Agriculture, Agricultural Research Service, Irrigated Agriculture and Research Extension Center, to allow the field testing in Benton, Klickitat, and Yakima Counties, Washington, of potato plants genetically engineered to express a gene from *Bacillus thuringienis* var. *kurstaki* that encodes a toxin lethal to the larvae of some lepidoteran insects, and to express a gene from *Bacillus thuringiensis* var. *tenebrionis* that encodes a toxin lethal to some coleopteran insects. The assessment provides a basis for the conclusion that the field testing of these genetically engineered potato plants will not present a risk of the introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Ellen Liberman, Biotechnologist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 845, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612. For copies of the environmental assessment and finding of no significant impact, write Mr. Clayton Givens at this same address. The environmental assessment should be requested under permit number 90-031-02.

SUPPLEMENTARY INFORMATION:

The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906, June 16, 1987).

The U.S. Department of Agriculture, Agricultural Research Service, Irrigated Agriculture and Research Extension Center, in Posser, Washington, has submitted an application for a permit for release into the environment, to field test potato plants genetically engineered to express a gene from *Bacillus thuringiensis* var. *kurstaki* that encodes a toxin lethal to the larvae of some lepidopteran insects, and to express a gene from *Bacilus thuringiensis* var. *tenebrionis* that encodes a toxin lethal to some coleopteran insects. The field trial will take place in Benton, Klickitat, and Yakima Counties, Washington.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the potato plants under the conditions described in the U.S. Department of Agriculture application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact, which are based on data submitted by the U.S. Department of Agriculture, as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. Insecticidal genes from *B. thuringiensis* var. *kurstaki* and *B. thuringiensis* var. *tenebrionis* have been modified and inserted into the potato chromosome in a way that would allow the biosynthesis of delta-endotoxin. Neither the genes nor their polypetide products confer on potato any plant pathogenic characteristic. Introduction of these genes is expected to have no effect on complex plant characteristics such as the ability or inability to fix nitrogen, yield, or susceptibility to plant pests.

2. Three transformed potato cultivars are being tested: Russet Burbank, Lemhi Russet, and DM56-4. Commercial cultivars of potato such as Russet Burbank and Lemhi Russet, are propagated vegetatively (i.e., via tubers). One of these potato cultivars, Russet Burbank, produces little or no pollen. Lemhi Russet DM56-4 produce pollen and set fruit. In nature, the genetic material contained in a flowering plant chromosome can only be transferred to another sexually compatible plant via cross-pollination. Because one variety does not produce pollen, Russet Burbank, and the other two pollen-producing varieties, Lemhi Russet and DM56-4, will be deflowered prior to flower opening, the inserted genes cannot spread to any other plant in this field test.

3. The delta-endotoxin genes do not confer on the transformed potato plants any measurable selective advantage over nontransformed potato plants to be dispersed or to become established in the environment.

4. The vector used to transfer the delta-endotoxin gene to potato plants has been evaluated and does not pose a plant pest risk in this experiment. The vector, although derived from the DNA of a tumor inducing (Ti) plasmid with known plant pathogenic potential, has been disarmed; that is, genes that are necessary for pathogenicity have been removed from the vector. The vector has been tested and shown to be nonpathogenic to susceptible plants.

5. The vector agent, *Agrobacterium tumefaciens,* used to deliver the chimeric vector DNA containing the delta-endotoxin gene into the potato plant cells was eliminated by the use of the appropriate antibiotics and therefore is not associated with the transformed plants being tested.

6. Excision and horizontal movement of the stably integrated delta-endotoxin gene into a plant genome (i.e., chromosomal DNA) has not been demonstrated. The vector does not survive in or on the transformed plant after delivering and inserting the delineated piece of DNA into the potato genome. Pollination is the only known mechanism to move an inserted gene

from a chromosome of a transformed plant to any other organism.

7. The purpose of the field trials is to determine the ability of transgenic potato plants expressing the delta-endotoxin to resist natural Colorado potato bettle and cabbage looper infestations. The experiment is also designed to measure the agronomic performance of the transformed potato plants. The field test sites are small, each 0.25 of an acre, and contain a maximum of 675 transgenic plants per site.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*), (2) Regulations of the Council on Environmenal Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1509), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, D.C., this 2nd day of July 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–15832 Filed 7–6–90; 8:45 am]

BILLING CODE 3410–34–M

Federal Grain Inspection Service

Request for Designation Applicants to Provide Official Services in the Geographic Areas Currently Assigned to the Mid-Iowa (IA) Agency, the State of Oregon (OR), and Southern Illinois (IL) Agency; correction.

In FR Doc. 90–7310 beginning on page 12241 in the issue of Monday, April 2, 1990, make the following corrections under Supplementary Information:

1. On page 12241, in the second column, in the third paragraph, the date written as "December 1, 1987," should read "October 1, 1987";

2. On page 12241, in the second column, in the fourth paragraph, the date written as "Nocember 30, 1990," should read "September 30, 1990";

3. On page 12242, in the first column, in the sixth line, the date written as "December 1, 1990," should read "October 1, 1990"; and

4. On page 12242, in the first column, in the seventh line, the date written as "November 30, 1993," should read "September 30, 1993."

Dated: July 3, 1990.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 90–15836 Filed 9–6–90; 8:45 am]

BILLING CODE 3410–EN–M

Request for Designation Applicants to Provide Official Services in the Geographic Areas Currently Assigned to the Hastings (NE) Agency and the State of New York (NY); Correction

In FR Doc. 90–10065, beginning on page 18144 in the issue of Tuesday, May 1, 1990, make the following corrections under **SUPPLEMENTARY INFORMATION:**

1. On page 18145, in the first column, in the third paragraph, the date written as "January 1, 1988", should read "November 1, 1987";

2. On page 18145, in the first column, in the fourth paragraph, the date written as "December 31, 1990", should read "October 31, 1990";

3. On page 18145, in the second column, in the third complete paragraph, the date written as "January 1, 1991", should read "November 1, 1990"; and

4. On page 18145, in the second column, in the third complete paragraph, the date written as "December 31, 1993", should read "October 31, 1993".

Dated: July 3, 1990.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 90–15837 Filed 7–6–90; 8:45 am]

BILLING CODE 3410–EN–M

Request for Designation Applicants to Provide Official Services in the Geographic Areas Currently Assigned to the Aberdeen (SD), and McGregor (IA) Agencies and the State of Missouri (MO); Correction

In FR Doc. 90–12456 beginning on page 22362 in the issue of Friday, June 1, 1990, make the following corrections under **SUPPLEMENTARY INFORMATION:**

1. On page 22362, in the second column, in the first complete paragraph, the date written as "February 1, 1988", should read "December 1, 1987";

2. On page 22362, in the second column, in the second complete paragraph, the date written as "January 31, 1991", should read "November 30, 1990";

3. On page 22363, in the first column, in the second line, the date written as "February 1, 1991", should read "December 1, 1990", and

4. On page 22363, in the first column, in the third line, the date written as "January 31, 1994", should read "November 30, 1993".

Dated: July 3, 1990.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 90–15838 Filed 7–6–90; 8:45 am]

BILLING CODE 3410–EN–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Transportation and Related Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held July 26, 1990, at 9:30 a.m., in the Herbert C. Hoover Building. Room 1617–F, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to transportation and related equipment or technology. The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356. dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC. For further information, call Ruth D. Fitts at 202–377–4959.

Dated: June 20, 1990.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 90–15757 Filed 7–6–90; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Order No. 467]

Resolution and Order Approving the Application of the North Carolina State Department of Commerce for a Special-Purpose Subzone at the Lawnmower Manufacturing Plant of Honda Power Equipment Company in Alamance County, NC; Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the North Carolina Department of Commerce, grantee of Foreign-Trade Zone 66, filed with the Foreign-Trade Zones Board (the Board) on October 30, 1984, requesting special-purpose subzone status at the lawnmower manufacturing facility of Honda Power Equipment Company in Alamance County, North Carolina, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations would be satisfied and that the proposal would be in the public interest if approval were subject to a restriction requiring Honda to elect privileged foreign status on all foreign merchandise admitted to the subzone, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Whereas, by an act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the North Carolina Department of Commerce, grantee of Foreign-Trade Zone 66, has made application (filed October 30, 1984, FTZ Docket 48–84, 49 FR 44779), in due and proper form to the Board for authority to establish a special-purpose subzone at the lawnmower manufacturing plant of Honda Power Equipment Company located in Alamance County, North Carolina, adjacent to the Durham Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the proposal would be in the public interest if approval were given subject to the restriction in the resolution accompanying this action;

Now, therefore, in accordance with the application filed October 30, 1984, the Board hereby authorizes the establishment of a subzone at the Honda Power Equipment Company plant in Alamance County, North Carolina, designated on the records of the Board as Foreign-Trade Subzone No. 66A at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and regulations issued thereunder, to the restriction in the resolution accompanying this action, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto any necessary permits shall be obtained from federal, state, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties. The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 27th day of June, 1990, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Eric I. Garfinkel,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates.

[FR Doc. 90–15758 Filed 7–6–90; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–479–801]

Postponement of Final Antidumping Duty Determination: Industrial Nitrocellulose From Yugoslavia

AGENCY: International Trade Administration, Import Administration, Department of Commerce

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the respondent in this investigation, Milan Blagojevic (MB), to postpone the final determination, as permitted in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act), (19 U.S.C. 1673d(a)(2)(A)).

Based on the respondent's request, we are postponing our final determination as to whether imports of industrial nitrocellulose from Yugoslavia are being, or are likely to be, sold in the United States at less than fair value until not later than September 6, 1990.

EFFECTIVE DATE: June 9, 1990.

FOR FURTHER INFORMATION CONTACT: Karmi Leiman at (202) 377–8498 or Bradford Ward at (202) 377–5288, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On April 24, 1990, we published a preliminary determination of sales at less than fair value of this merchandise. That notice stated that if the investigation proceeded normally, we would make our final determination by July 2, 1990 (55 FR 17290).

On May 2, 1990, MB requested a postponement of the final determination until not later than 135 days from the publication of the Department's preliminary determination pursuant to section 735(a)(2)(A) of the Act (19 U.S.C. 1673d(a)(2)(A)). MB accounts for all of the exports of the merchandise to the United States. Pursuant to 19 CFR

353.20(b), if exporters who account for a significant proportion of exports of the subject merchandise under investigation request a postponement of the final determination following an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, we are postponing our final determination until not later than September 6, 1990.

The U.S. International Trade Commission is being advised of this postponement in accordance with section 735(d) of the Act. This notice is published pursuant to section 735(d) of the Act.

Dated: June 29, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-15759 Filed 7-6-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-401]

Red Raspberries From Canada; Amended Final Results of Antidumping Duty Administrative Review in Accordance With Decision Upon Remand

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of amendment to final results of antidumping duty administrative review in accordance with decision upon remand.

SUMMARY: As a result of a remand from the U.S.-Canada Binational Panel ("the Panel"), the International Trade Administration of the Department of Commerce ("the Department") is amending its final results of administrative review of the antidumping duty order on red raspberries from Canada, published in the Federal Register on February 13, 1989 (52 FR 6889). The Department has determined, in accordance with the instruction of the panel, that dumping margins for entries of fresh or frozen red raspberries packed in bulk and suitable for further processing, and sold during the period June 1, 1986 through May 31, 1987, are 0.11 percent for Clearbrook Processors, Inc. and 0.00 percent for Mukhtiar and Sons Packers, Ltd.

EFFECTIVE DATE: June 28, 1990.

FOR FURTHER INFORMATION CONTACT: Dolores Ricci or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On February 13, 1989, the Department published in the Federal Register (54 FR 6561) the final results of its administrative review of the antidumping duty order on certain red raspberries from Canada. The review covered four producers and/or exporters of this merchandise to the United States and the period June 1, 1986 through May 31, 1987. That notice gave 2.59 percent as the margin for Clearbrook Processors, Inc. ("Clearbrook"), 3.67 percent as the margin for Mukhtiar and Sons Processors, Ltd. ("Mukhtiar"), 5.21 percent as the margin for Jesse Processing, Ltd. ("Jesse"), and 9.15 percent as the margin for Marco Estates, Ltd./Landgrow ("Marco"). The notice stated that the Department compared sales in the United States with constructed value for Clearbrook and Mukhtiar because their home market sales did not provide an adequate basis for calculating foreign market value ("FMV"). The Department based FMV on constructed value for Marco because Marco had no sales in the home market or third countries of such or similar merchandise. The Department used all of Jesse's home market sales as a basis for FMV.

On April 14, 1989 respondents Clearbrook, Mukhtiar, and Marco challenged the Department's use of constructed value under Article 1904 of the U.S.-Canada Free Trade Agreement. Respondents Clearbrook and Mukhtiar claimed that their home market sales should be used as the basis for calculating FMV because these sales satisfied the viability test in amended § 353.4 of the Department's regulations applicable at the time of the contested determination (19 CFR 353.4 (1988)). Marco claimed that its home market sales of fresh market berries should be used as the basis for calculating FMV because fresh market berries are similar to the grade B and juice grade berries sold to the United States.

On December 15, 1989, the Panel issued its determination *In the Matter of Red Raspberries from Canada* USA-89-1904-01. The Panel affirmed the Department's use of constructed value for Marco, but remanded the case to the Department to provide an explanation of why home market sales of Clearbrook and Mukhtiar did not provide adequate bases for calculating FMV for the final results of the second administrative review of the antidumping duty order on red raspberries from Canada. The Department submitted its Remand Determination to the Panel on January 26, 1990. In its Remand Determination, the Department explained that it rejected Clearbrook's and Mukhtiar's home market sales because they constituted less than five percent of their sales to the United States.

On April 2, 1990, the Panel issued its Opinion upon Remand. The Panel concluded that the Department's explanation for its rejection of home market sales was unresponsive and remanded the case to the Department with instructions to calculate foreign market value for Clearbrook and Mukhtiar using home market sales. In accordance with the Panel's opinion of April 2, 1990, and pursuant to its order, the Department used Clearbrook's and Mukhtiar's home market sales as the basis for FMV and filed the required remand results with the Panel on May 2, 1990. On June 18, 1990, the Panel affirmed, in its entirety, the remand determination of the Department. As a result, the margin for Clearbrook was reduced from 2.59 percent to 0.11 percent and the margin for Mukhtiar was reduced from 3.59 percent to 0.0 percent.

Results of Remand

United States Price

As provided for in section 772(b) of the Tariff Act of 1930 ("the Tariff Act"), we used purchase price for those sales where the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on the delivered to cold storage, packed price except for the purchase price sales made by Mukhtiar, which were sold ex-plant, unpacked. We made deductions, where applicable, for U.S. customs duties, brokerage and handling, and foreign inland freight. As provided for in section 772(c) of the Tariff Act, we used exporter's sales price for those sales where the merchandise was sold to unrelated purchasers after importation into the United States. We calculated the exporter's sales price based on the delivered to cold storage, packed price for all companies. We made deductions, where applicable, for brokerage and handling, foreign inland freight, credit expenses, commissions to unrelated agents and indirect selling expenses.

Foreign Market Value

In accordance with the order from the U.S.-Canada Binational Panel, for Clearbrook and Mukhtiar we are using home market price, as defined in section 773 of the Tariff Act, as the basis for foreign market value when one or more contemporaneous sales were made in the home market. Mukhtiar did not have a contemporaneous home market sale to

compare with one of its sales made to the United States; therefore, we used constructed value as the basis of FMV for that sale.

Home market prices were based on the F.O.B. packed price to unrelated purchasers in Canada, with appropriate deductions for freight. We adjusted home market prices for differences in credit and packing, as appropriate. We deducted discounts from the home market price, where applicable. We made further adjustments for U.S. commissions, and for home market commissions or for indirect selling expenses to offset U.S. commissions, as appropriate, in accordance with § 353.15(c) of the Department's regulations in effect at the time of the review (now codified at 19 CFR 353.56 (b)(1989)).

We calculated constructed value by adding the cost of materials, labor, factory overhead, and general, selling and administrative expenses ("GS&A"), profit and packing. The statutory minima of 10 percent of the total of the cost of manufacture, and 8 percent of the total of the cost of manufacture and GS&A, were used for GS&A and profit, respectively, since actual GS&A and profit were less than the statutory minima. We weight-averaged the prices of the unprocessed berries supplied by both the related and the unrelated growers in calculating the cost of materials in constructed value because the related growers, prices reflected market values. Mukhtiar claimed a water gain/dockage adjustment to account for differences in the pounds of raspberries processed and sold. We deducted an amount for water gain/dockage from the weighted average price of the raw berries. We denied Mukhtiar's claim for a deduction from its constructed value for income earned from the Farm Insurance program because the income was earned by the grower rather than the processor.

In comparing the constructed value to the ESP sale, we adjusted constructed value for packing, credit, and indirect selling expenses.

As a result of our comparison of United States price to foreign market value, we determine that the following margins exist for the period June 1, 1986 through May 31, 1987:

Processor/Exporter	Margin (percent)
Clearbrook Packers, Inc.	0.11
Mukhtiar & Sons Packers, Ltd.	0

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Since the margin for Mukhtiar is zero and the margin for Clearbrook is less than 0.5 percent, and therefore *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of estimated antidumping duties for these firms. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after May 31, 1987 and who is unrelated to any reviewed firm, a cash deposit of 9.15 percent shall be required. These deposit requirements and waivers are effective for all shipments of fresh or frozen Canadian red raspberries packed in bulk and suitable for further processing, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This amendment to the final results of antidumping duty administrative review notice is in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and § 353.22 of the Department's regulations (19 CFR 353.22 (1989)).

Dated: June 27, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-15760 Filed 7-6-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-401]

Red Raspberries From Canada; Preliminary Results and Termination in Part of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results and termination in part of antidumping duty administrative reviews.

SUMMARY: In response to requests by respondents and one importer, the Department of Commerce has conducted administrative reviews of the antidumping duty order on fresh and frozen red raspberries from Canada. The first of these reviews covers five processors/exporters of this merchandise to the United States and the period June 1, 1987 through May 31, 1988. We preliminarily determine dumping margins for this period to range from zero to 6.45 percent. The subsequent review covers two processor/exporters of this merchandise to the United States and the period June 1, 1988 through May 31, 1989. We preliminarily determine the margins for this period to range from zero to 1.17 percent. Based upon withdrawn requests for review, the review of Mukhtiar & Sons Packers for the June 1, 1987 through May 31, 1988 period and the reviews of Landgrow Fruit Packers Ltd. and Valley Berries Inc. for the June 1, 1988 through May 31, 1989 period are being terminated. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 9, 1990.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 24, 1985, the Department of Commerce (the Department) published in the Federal Register (50 FR 26019) the antidumping duty order on certain red raspberries from Canada. During July 1988, five respondents, Mukhtiar & Sons Packers, Clearbrook Packers, Inc. (Clearbrook Packers), Jesse Processing, Ltd. (Jesse Processing), Valley Berries, Inc. (Valley Berries), and British Columbia Blueberry Co-op Association (B.C. Blueberry Co-op) and an importer of subject merchandise sold by Landgrow Fruit Packers, Ltd. (Landgrow Fruit Packers), requested in accordance with 19 CFR 353.53a(a)(1988) (now codified at 19 CFR 353.22(a)(1989)) that we conduct an administrative review for the period June 1, 1987 through May 31, 1988. We published a notice of initiation of the antidumping duty administrative review for the period June 1, 1987 through May 31, 1988 on July 28, 1988 (53 FR 28423). Because Mukhtiar & Sons Packers subsequently withdrew their request for review, the Department is terminating the review of their sales for this period.

During July 1989, four processor/exporters requested, in accordance with § 353.22(a) of the Department's regulations (19 CFR 353.22(a)(1989)), that we conduct an administrative review of the period June 1, 1988 through May 31, 1989. We published a notice of initiation of the antidumping duty administrative review for the period June 1, 1988

through May 31, 1989 on July 25, 1989 (54 FR 30915). Because the review requests of Landgrow Fruit Packers and Valley Berries were subsequently withdrawn, the Department is terminating the review of this period with respect to these two processor/exporters. The Department has now conducted the administrative reviews in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS) as provided for in section 1201 *et seq* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS number(s).

Imports covered by these reviews are shipments of fresh and frozen red raspberries packed in bulk containers and suitable for further processing. Fresh raspberries were classified under item numbers 146.5400 and 146.7400 of the *Tariff Schedules of the United States Annotated* (TSUSA) and frozen raspberries under item number 146.7400 of the TSUSA. These products are currently classifiable under HTS item numbers 0810.20.90, 0810.20.10, and 0811.20.20. The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

The review for the period June 1, 1987 through May 31, 1988 covers five processors/exporters of fresh and frozen red raspberries to the United States. The review with respect to Mukhtiar & Sons Packers for this period is being terminated. For the review of the June 1, 1988 through May 31, 1989 period, two processors/exporters are covered. The review of this period with respect to Landgrow Fruit Packers and Valley Berries is being terminated.

United States Price

As provided in section 772(b) of the Tariff Act, we used the purchase price of certain sales of red raspberries to represent the United States price, when the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on the f.o.b. plant, f.o.b. to cold storage, or delivered packed price. We made deductions, where applicable, for brokerage/handling and inland freight.

As provided in section 772(c) of the Act, we used the exporter's sales price of certain sales of red raspberries to represent the United States price when the merchandise was sold to unrelated purchasers after importation into the United States. We calculated the exporter's sales price based on the f.o.b. from cold storage packed price. We made deductions, where applicable, for brokerage/handling, inland freight, credit expenses, commissions to unrelated agents, and indirect selling expenses.

Foreign Market Value

In accordance with section 773(a) of the Act, the Department used home market or third country price in calculating foreign market value. Third country price was used in the absence of contemporaneous home market sales. Home market and third country price was based on the f.o.b. plant, f.o.b. cold storage, or delivered packed price to unrelated purchasers in the home or third country markets. We made adjustments, where applicable, for foreign inland freight, credit expenses, brokerage/handling, commissions, discounts, indirect selling expenses to offset commissions, and differences in packing. When exporter's sales price was used as United States price, we also made adjustments to the home market price for indirect selling expenses to offset the deduction from U.S. price of U.S. indirect selling expenses.

Preliminary Results of the Reviews

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist for the periods noted:

Processor/ Exporters	Review period	Margin (percent)
Valley Berries	6/1/87-5/31/88	3.83
B.C. Blueberry Co-op	6/1/87-5/31/88	.38
	6/1/88-5/31/89	0
Clearbrook packers	6/1/87-5/31/88	.31
Landgrow Fruit Packers	6/1/87-5/31/88	6.45
Jesse Processing	6/1/87-5/31/88	0
	6/1/88-5/31/89	1.17

Parties to the proceeding may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with § 353.38(e) of the Department's regulations. The Department will publish the final results of the administrative reviews including the results of the analysis of any such written comments or oral argument.

Representatives of interested parties may request disclosure of proprietary information under administrative protective order within 10 days of the date that the interested party becomes a party to the proceeding but in no event later that the date the case briefs are due.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the most recent margin shall be required for these manufacturers/exporters. Because there was no margin for B.C. Blueberry Co-op, and the most recent margin for Clearbrook Packers is *de minimis*, no cash deposit will be required for either of these two respondents.

For shipments from the remaining known manufacturers and exporters not covered by these reviews, the cash deposit will continue to be at the latest rate applicable to each of those firms. For any future entries of this merchandise from a new exporter not covered in this or prior reviews, whose first shipments occurred between June 1, 1988 and May 31, 1989, and who is unrelated to any reviewed firm, a cash deposit of 6.45 percent shall be required. For any future entries of this merchandise from a new exporter not covered in this or prior reviews, whose first shipments occurred after May 31, 1989 and who is unrelated to any reviewed firm, a cash deposit of 1.17 percent shall be required. These deposit requirements are effective for all shipments of Canadian red raspberries entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these administrative reviews.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's regulations.

Dated: June 28, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-15761 Filed 7-6-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-614-503]

Lamb Meat From New Zealand Final; Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On February 26, 1990, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on lamb meat from New Zealand. We have now completed that review and determine the total bounty or grant to be 26.01 percent *ad valorem* for Taumaranui and 3.90 percent *ad valorem* for all other firms during the period April 1, 1987 through March 31, 1988.

EFFECTIVE DATE: July 9, 1990.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Paul McGarr, Office of Countervailing. Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On February 26, 1990, the Department of Commerce ("the Department") published in the **Federal Register** (55 FR 6672) the preliminary results of its administrative review of the countervailing duty order on lamb meat from New Zealand (50 FR 37708; September 17, 1985). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Tariff Act").

Scope of Review

Imports covered by this review are shipments of lamb meat, other than prepared, preserved or processed, from New Zealand. During the review period, such merchandise was classifiable under item number 106.3000 of the *Tariff Schedules of the United States Annotated.* This merchandise is currently classifiable under item numbers 0204.10.0000, 0204.22.2000, 0204.23.2000, 0204.30.0000, 0204.42.2000 and 0204.43.2000 of the *Harmonized Tariff Schedule* (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period April 1, 1987 through March 31, 1988 and four programs: (1) Export Market Development Taxation Incentive ("EMDTI"); (2) Livestock Incentive Scheme ("LIS"); (3) Meat Producers Board Price Support Scheme ("MPBPS"); and (4) Export Performance Taxation Incentive ("EPTI").

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from Lamb Gourmet Co., Ltd., the New Zealand Meat Producers Board and lamb meat exporters.

Comments 1: Lamb Gourmet Co., Ltd. (previously Taumaranui) argues that it should not be subject to a company-specific rate because the EMDTI benefits reported in its April 5, 1989 questionnaire response were for exports of a lamb meat product not subject to the order; Taumaranui claims that it did not export lamb meat covered by the order during the review period.

Department's Position: We disagree. We calculated Taumaranui's EMDTI benefit based on data in Taumaranui's questionnaire response of April 5, 1989 which indicated that Taumaranui received EMDTI benefits on exports of the subject merchandise to the United States. Taumaranui did not submit contrary factual information until March 28, 1990, after the publication of our preliminary results. In accordance with 19 CFR 355.31(a)(1)(ii) and (a)(3), we have not considered factual information submitted after the preliminary results and have returned it to the submitter.

Comment 2: The New Zealand Meat Producers Board and the lamb meat exporters contend that the value of sheep production used in the Department's calculation of the benefit from the Livestock Incentive Scheme (LIS) does not accurately reflect LIS benefits to the producer. They claim that the LIS benefits are related to farm gate returns, not a hypothetical export value that the imputed FOB value utilized represents.

Department's Position: We disagree. We calculated the benefit from the LIS program based on data submitted by the New Zealand government in its April 5, 1989 questionnaire response. Furthermore, the methodology used in the current review is the same used in the previous review and was the basis on which the New Zealand government submitted the data. The factual information upon which the claim for a change in the method of calculating LIS benefits is based was not submitted until after the preliminary results and was returned in accordance with our regulations.

Comment 3: The New Zealand Meat Producers Board and lamb meat exporters contend that, because of the termination of the EMDTI program on March 31, 1990, the Department should establish a zero deposit rate with respect to that program.

Department's Position: We disagree. Because the termination of the EMDTI program occurred after the publication of the preliminary results, we have not considered this program-wide change in calculating the rate of cash deposit of estimated countervailing duties. Furthermore, although EMDTI was generally scheduled to terminate on March 31, 1990, certain companies may claim benefits on income tax returns covering a period through September 1990, depending on the end of their corporate fiscal year. However, as did take into account the discussed in the preliminary results, we program-wide change effective for the fiscal year ending March 31, 1989 in calculating the cash deposit of estimated countervailing duties.

Following publication of the preliminary results, we discovered a clerical error in the calculation of the weighted-average "all other" rate. We have corrected this error and, consequently, the "all other" rate is different from that calculated for the preliminary results.

Final Results of Review

As a result of our review, we determine the total bounty or grant to be 26.01 percent *ad valorem* for Taumaranui and 3.90 percent *ad valorem* for all other firms during the period April 1, 1987 through March 31, 1988.

Therefore, the Department will instruct the Customs Service to assess countervailing duties of 26.01 percent *ad valorem* for Taumaranui and 3.9 percent *ad valorem* for all other firms on all shipments of this merchandise exported on or after April 1, 1987 and on or before March 31, 1988.

Because of the phase-down of the EMDTI program, the Department will instruct the Customs Service to collect a

cash deposit of estimated countervailing duties of 22.84 percent of the f.o.b. invoice price for Taumaranui and 3.50 percent of the f.o.b. invoice price for all other firms on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Eric I. Garfinkel

Assistant Secretary for Import Administration.

Dated: June 27, 1990.

[FR Doc. 90-15762 Filed 7-6-90; 8:45 am]

BILLING CODE 3510-DS-M

The Salk Institute for Biological Studies; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 89-244. *Applicant:* The Salk Institute for Biological Studies, La Jolla, CA 92037. *Instrument:* Mass Spectrometer, Model JMS-HX110. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* See notice at 54 FR 47253, November 13, 1989. *Reasons:* The foreign instrument provides resolution to 125 000 and a mass range to 12 000 at an accelerating potential of 10 kV. *Advice Submitted By:* National Institutes of Health, April 19, 1990.

Docket Number: 89-246. *Applicant:* Medical University of South Carolina, Charleston, SC 29425. *Instrument:* Mass Spectrometer, Model JMS-HX110/HX110. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* See notice at 54 FR 47253, November 13, 1989. *Reasons:* The foreign instrument provides (1) mass range to 14 000 at an accelerating potential of 10 kV, (2) resolution of 125 000 and (3) FAB and MS/MS capability. *Advice Submitted By:* National Institutes of Health, April 19, 1990.

Docket Number: 89-247. *Applicant:* Thomas Jefferson University, Philadelphia, PA 19167. *Instrument:* Muscle Transducer System. *Manufacturer:* Dr. K. Guth, West Germany. *Intended Use:* See notice at 54 FR 47253, November 13, 1989. *Reasons:* The foreign instrument can clamp very small and delicate specimens and provides a sensitivity to 0.3mg of force. *Advice Submitted By:* National Institutes of Health, April 19, 1990.

Docket Number: 89-252. *Applicant:* University of Pennsylvania, Philadelphia PA 19104. *Instrument:* Hybrid Piezo-Manipulator, Model PM 20N. *Manufacturer:* Biomedizinische Instrumente, West Germany. *Intended Use:* See notice at 54 FR 47703, November 16, 1989. *Reasons:* The foreign instrument provides an advance velocity of 25 μm/ms with variable step size in the range from 0.5 to 10 μm. *Advice Submitted By:* National Institutes of Health, April 19, 1990.

Docket Number: 89-143R. *Applicant:* Wayne State University, Detroit, MI 48202. *Instrument:* Mass Spectrometer System, Model MS40 RF. *Manufacturer:* Kratos Analytical, United Kingdom. *Intended Use:* See notice at 54 FR 22000, May 22, 1989. *Reasons:* The foreign instrument provides a mass range to 10 000 daltons at 8 kV and a resolution to 10 000 at a mass of 10 000. *Advice Submitted By:* National Institutes of Health, May 3, 1990.

Docket Number: 89-253. *Applicant:* La Jolla Cancer Research Center, La Jolla, CA 92037. *Instrument:* Mass Spectrometer, Model VG 70250SE. *Manufacturer:* VG Analytical, Ltd., United Kingdom. *Intended Use:* See notice at 54 FR 47702, November 16, 1989. *Reasons:* The foreign instrument provides a mass range to 3000 daltons at 8 kV and FAB capability with a scan rate of 0.1/seconds per decade. *Advice Submitted By:* National Institutes of Health, May 3, 1990.

Docket Number: 89-270. *Applicant:* FDA-Center for Biologics Evaluation and Research, Bethesda, MD 20892. *Instrument:* Mass Spectrometer, Model BIOION 20. *Manufacturer:* BIOION Nordic AB, Sweden. *Intended Use:* See notice at 55 FR 1074, January 11, 1990. *Reasons:* The foreign instrument provides: (1) a plasma desorption source, (2) mass range to 20 000, and (3) rapid scan and time-of-flight capabilities. *Advice Submitted By:* National Institutes of Health, May 3, 1990.

Docket Number: 89-277. *Applicant:* Mt. Sinai Medical Center, New York, NY 10029. *Instrument:* Single Photon Emission Computerized Tomographic Brain Scanner, Model Tomomatic 564. Manufacturer: Medimatic A/S, Denmark. *Intended Use:* See notice at 55 FR 1075, January 11, 1990. *Reasons:* The foreign instrument is capable of absolute measurement of regional cerebral blood float from Xenon-133 distribution and can measure subjects in an upright, seated position. *Advice Submitted By:* National Institutes of Health, May 22, 1990.

Docket Number: 89-283. *Applicant:* Rutgers University, Newark, NJ 07102. *Instrument:* WATSMART 3-Dimensional Movement Tracking Device. *Manufacturer:* Northern Digital, Inc., Canada, *Intended Use:* See notice at 55 FR 1075, January 11, 1990. *Reasons:* The foreign instrument provides three-dimensional digital analysis of eight hand/arm positions with a reconstruction rate of at least 100 markers per second. *Advice Submitted By:* National Institutes of Health, May 22, 1990.

Docket Number: 89-284. *Applicant:* Emory University, Atlanta, GA 30311. *Instrument:* Motion Analysis System: Optotrack. *Manufacturer:* Northern Digital, Inc., Canada. *Intended Use:* See notice at 55 FR 2125, January 22, 1990. *Reasons:* The foreign instrument provides three-dimensional digital analysis of motion with a resolution of 1:10 000, an inaccuracy of 0.05% and can be operated in a normally lighted room. *Advice Submitted By:* National Institutes of Health, May 22, 1990.

The National Institutes of Health advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90-15763 Filed 7-6-90; 8:45 am]

BILLING CODE 3510-DS-M

University of California; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural

Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 2841, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 90–050. *Applicant:* The Regents of the University of California at San Diego, La Jolla, CA 92093. *Instrument:* Electron Microscope, Model EM10/PC. *Manufacturer:* Philips Electronic Instruments, Inc, The Netherlands. *Intended Use:* See notice at 55 FR 14335, April 17, 1990, *Order Date:* November 1, 1989.

Docket Number: 90–051. *Applicant:* U.S. Department of Health & Human Services, Denver, CO 802984. *Instrument:* Electron Microscope, Model JEM–1200EX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 55 FR 18367, May 2, 1990. *Order Date:* September 1, 1989.

Docket Number: 90–052. *Applicant:* The Regents of the University of California, San Diego, La Jolla, CA 92093. *Instrument:* Electron Microscope Model JEM–4000EX/SEG. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* See notice at 55 FR 18367, May 2, 1990. *Order Date:* March 17, 1989.

Docket Number: 90–053. *Applicant:* University of Pennsylvania, Philadelphia, PA 19104–6142. *Instrument:* Electron Microscope, Model H–7000. *Manufacturer:* Hitachi Scentific Instruments, Inc., Japan. *Intended Use:* See notice at 55 FR 18367, May 2, 1990. *Order Date:* July 7, 1989.

Docket Number: 90–054. *Applicant:* Case Western Reserve University, Cleveland, OH 44106. *Instrument:* Electron Microscope, Model CEM 902/G45. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 55 FR 18367, May 2, 1990. *Order Date:* November 13, 1989.

Docket Number: 90–055. *Applicant:* Harvard University, Cambridge, MA 02138. *Instrument:* Electron Microscope, Model H–7000–3. *Manufacturer:* Hitachi, Scientific Instruments, Japan. *Intended Use:* See notice at 55 FR 18367, May 2, 1990. *Order Date:* December 5, 1989.

Docket Number: 90–056. *Applicant:* Brown University, Providence, RI 02912. *Instrument:* Electron Microscope, Model JEM–2010 and Accessories. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice in 55 FR 18366, May 2, 1990. *Order Date:* December 7, 1989.

Docket Number: 90–057. *Applicant:* University of Florida, Gainesville, FL 32611. *Instrument:* Electron Microscope, Model H–7000 with Accessories. *Manufacturer:* Hitachi Scientific Instruments, Japan. *Intended Use:* See notice at 55 FR 18367, May 2, 1990. *Order Date:* January 29, 1990.

Docket Number: 90–061. *Applicant:* Baylor College of Medicine, Houston, TX 77030. *Instrument:* Electron Microscope, Model MC12/STEM. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice in 55 FR 18366, May 2, 1990. *Order Date:* February 28, 1990.

Docket Number: 90–062. *Applicant:* University of California, San Francisco, CA 94143. *Instrument:* Electron Microscope, Model CM10. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice in 55 FR 18366, May 2, 1990. *Order Date:* December 19, 1989.

Docket Number: 90–064. *Applicant:* University of Texas Medical School at Houston, Houston, TX 77030. *Instrument:* Electron Microscope, Model JEM–1200EXII. *Manufacturer:* JOEL, Ltd., Japan. *Intended Use:* See notice in 55 FR 18366, may 2, 1990. *Order Date:* March 12, 1990.

Docket Number: 90–071. *Applicant:* Northwestern University, Evanston, IL 60208. *Instrument:* Electron Microscope, Model HF–2000. *Manufacturer:* Hitachi, Japan. *Intended Use:* See notice at 55 FR 19294, May 9, 1990. *Order Date:* August 4, 1989.

Docket Number: 90–084. *Applicant:* National Institutes of Health, Bethesda, MD 20892. *Instrument:* Electron Microscope, Model JEM–1200EXIII. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 55 FR 21420, May 24, 1990. *Order Date:* March 15, 1990.

Comments: None received. *Decision:* Approved. No instrument of equivalent scienfitic value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90–15764 Filed 7–6–90; 8:45 am]

BILLING CODE 3510–DS–M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 90–087. *Applicant:* University of Rochester, 601 Elm Avenue, Rochester, NY 14642. *Instrument:* Micromanipulator. *Manufacturer:* Narishige, Japan. *Intended Use:* The instrument will be used in research projects involving tissue from the rat central nervous system. The experiments to be conducted include electrophysiological recordings from the nerve cells. In these experiments the responses of these nerve cells to neurotransmitters normally present in the central nervous system will be tested and assessed. In addition, the instrument will be used for laboratory rotation courses, to train and teach graduate level students who are interested in the research project or in learning patch clamp recording techniques. *Application Received by Commissioner of Customs:* June 4, 1990.

Docket Number: 90–088. *Applicant:* Woods Hole Oceanographic Institution, Woods Hole, MA 02543. *Instrument:* Relative Humidity Calibration Chamber. *Manufacturer:* Tecnequip Enterprises Pty., Ltd., Australia. *Intended Use:* The instrument will be used to calibrate humidity sensors to be deployed on ship and buoys. These sensors will be part of an instrument package being developed specifically for the World Ocean Circulation Experiment. *Application Received by Commissioner of Customs:* June 5, 1990.

Docket Number: 90–089. *Applicant:* Woods Hole Oceanographic Institution, Woods Hole, MA 02543. *Instrument:* Temperature Standard. *Manufacturer:* Isotech, United Kingdom. *Intended Use:* The instrument will be used to provide a primary calibration point for standard platinum resistance thermometers which are used to calibrate sensors with which

precision measurements of air and sea temperatures are made in oceanographic research. *Application Received by Commissioner of Customs:* June 5, 1990.

Docket Number: 90–090 and 90–091. *Applicant:* National Eye Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892. *Instrument:* S.P.1 Optometer. *Manufacturer:* A.J. Neuro-Instruments, United Kingdom. *Intended Use:* The instrument will be used to measure the accommodative state of the monkey's eye in experiments that are concerned with the linear vestibulo-ocular reflex. *Application Received by Commissioner of Customs:* June 5, 1990.

Docket Number: 90–092. *Applicant:* Lamont-Doherty Geological Observatory of Columbia University, Rt. 9W Palisades, NY 10964, *Instrument:* ^{3}He Vacuum Extraction System & Tritium Sample Preparation System. *Manufacturer:* Institut Fur Umweltphysik, West Germany. *Intended Use:* The instrument will be used to measure ^{3}He, ^{4}He, Ne and tritium during studies of water samples from natural systems as oceans, groundwater and lakes. *Application Received by Commissioner of Customs:* June 6, 1990.

Docket Number: 90–093. *Applicant:* The University of Texas at El Paso, Purchasing Office, 500 W University Avenue, El Paso, TX 69968–0505. *Instrument:* Electron Microscope, Model H–8000. *Manufacturer:* Nissei Sangyo, Japan. *Intended Use:* The instrument will be used for studies of metals, alloys, ceramics, semiconductors and superconductors. The objectives of the experiments include relating defect structures to materials performance and behavior including the effects of stress and strain on metals and alloys and pressure of fabrication on superconductors. In addition, the instrument will be used in undergraduate and graduate courses to prepare students in basic instrument analysis, provide an understanding of fundamentals and allow hands-on experience in solving problems. *Application Received by Commissioner of Customs:* June 7, 1990.

Docket Number: 90–094. *Applicant:* National Institutes of Health, NCI/DCT/COP/ROB, 9000 Rockvile Pike, Bethesda, MD 20892. *Instrument:* Stopped Flow Spectrofluorimeter, SF 17mW. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* The instrument will be used to measure the speed of the chemical reactions of the metal ions bismuth, lead, gallium and copper with organic chelating agents. The effects of temperature, concentration and acidity on the reaction speed will be investigated. The objective of this investigation will be to optimize the conditions necessary for the incorporation of metal ions into the organic chelating agent. *Application Received by Commissioner of Customs:* June 7, 1990.

Docket Number: 90–095. *Applicant:* University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545, *Instrument:* Low Energy Pion Momentum Compactor. *Manufacturer:* Interatom GmbH, West Germany. *Intended Use:* The instrument will be used for studies of low energy pion-nucleus reactions, including inelastic scattering single- and double-charge exchange. Experiments will consist of low energy pion scattering from various nuclei. Out going pions will be detected in a magnetic spectrometer, a large solid-angle array of BGO crystals, and a small solid-angle, high resolution array of CsI crystals. The objectives of the experiments are to extend the data for pion-induced reactions at low energies to more weakly excited states in order to understand the fundamental interaction between the lightest meson (pion) and the nuclear interior. *Application Received by Commissioner of Customs:* June 8, 1990.

Docket Number: 90–096. *Applicant:* St. Jude Children's Research Hospital, 332 North Lauderdale, P.O. Box 318, Memphis, TN 38101. *Instrument:* Electron Microscope, Model JEM 1200EXII. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used for clinical and basic research to study the ultrastructure of (1) normal and abnormal tissue culture cells, (2) cells treated with chemotherapeutic agents, (3) blood cells, (4) viruses including cancer-causing agents, and (5) biological crystals and macromolecules. *Application Received by Commissioner of Customs:* June 8, 1990.

Docket Number: 90–097. *Applicant:* Montana State University, Montana Wool Laboratory, Animal and Range Science Department, Bozeman MT 59717. *Instrument:* Sonic Fineness Tester, Model B. *Manufacturer:* Paton Scientific Pty. Ltd., Australia. *Intended Use:* The instrument will be used for evaluating the wool fiber diameter of individual sheep. Experiments will be conducted to (1) compare measurement techniques of the sonic fineness tester to that of the standard microprojection method, (2) determine the influence of nutrition during gestation on development of primary and secondary wool follicles and subsequent follicle density and fiber diameter in the offspring, and (2) develop wool selection criteria for replacement ewes and rams based on sonic fineness measurements. In addition, the instrument will be used for educational purposes in the courses: Wool and Wool Industry, ANSCI 422, Sheep Production, ANSCI 426 and Animal Science in Agriculture, ANSCI 101. *Application Received by Commissioner of Customs:* June 12, 1990.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90–15765 Filed 7–6–90; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award's Panel of Judges

AGENCY: National Institute of Standards and Technology, DoC.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that there will be a closed meeting of the panel of Judges of the Malcolm Baldrige National Quality Award from Thursday, August 2, through Friday, August 3, 1990. The Panel of Judges is composed of nine members prominent in the field of quality management and appointed by the Director of the National Institute of Standards and Technology. The purpose of this meeting is to review the 1990 Award applications and to select applications to be considered in the site visit stage of the evaluation. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene August 2, 1990 at 8:30 a.m. and adjourn at approximately 2 p.m. on August 3, 1990. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Curt W. Reimann, Associate Director for Quality Programs, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2036.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on May 11, 1990 that the meeting of the Panel of Judges will be closed pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended by

section 5(c) of the Government in the Sunshine Act, Public Law 94-409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with section 552b(c)(4) of title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: June 30, 1990.

John Lyons,

Director.

[FR Doc. 90-15785 Filed 7-6-90; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Permit modifications:

Theater of the Sea, Permit Nos. 69 and 326

Dolphins Research Center, Permit No. 514

Dolphins Plus, Inc., Permit Nos. 292 and 577

Hyatt Regency Waikoloa Resort, Permit No. 625

Notice is hereby given that pursuant to the provision of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Special Conditions on Swim-with-the-Dolphin (SWTD) Programs that apply to public display Permit Nos. 69 and 326 issued to Theater of the Sea Inc. (P92 and P92B), Islamorada, Florida; Permit No. 514 issued to Dolphin Research Center (P53B), Marathon, Florida; Permit Nos. 292 and 577 issued to Dolphin Plus, Inc., Key Largo, Florida (P234 and P234A); and Pemit No. 625 issued to the Hyatt Regency Waikola Resource, Waikoloa, Hawaii, are modified by deleting Special Conditions D.1-D.6 and substituting the following:

D.1. The Permit Holder is authorized to use dolphins in an experimental human/dolphin swim program until December 31, 1991. The National Marine Fisheries Service (NMFS) may modify, suspend, or revoke this authority before December 31, 1991, if the SWTD programs are found to have an adverse impact on the health or well-being of the animals, if an ongoing review of public display permit authorities, procedures, and criteria results in new regulations that disallow such programs, or if the terms of the conditions that follow are not met.

D.2. *Cooperation With Research:* Permit Holders are required to cooperate with NMFS, including any NMFS contractor, in the study to investigate stress levels and behavior of dolphins in the swim programs compared to other captive dolphins. This may involve providing background information on the swim facilities and programs, following established behavior and medical monitoring protocols, restricting the duration or frequency of swim sessions, or providing additional information in quarterly reports. It also may require distribution of questionnaires to participants.

D.3. By June 30, 1990, the Permit Holder must provide the following baseline information:

(a) Identification of the individual dolphins to be used in the SWTD program and a certification from the attending veterinarian that each dolphin has been examined, is healthy, and can be admitted to the program.

(b) Content and methods for conducting an orientation program for human participants prior to the encounter, including any restrictions on phyiscal contact with the dolphins and proper response(s) in the event of aggressive dolphin behavior. Copies of the written disclosures required by Special Conditions D.10 and D.11 shall also be submitted.

(c) Detailed description of the SWTD facilities, including (1) the facilities that will be used to house the dolphins; (2) the facilities that will be used for the SWTD program; and (3) dimensions of each area including surface area and depth. Permit Holders shall not reduce the available space or restructure the physical facilities including water systems without prior approval from the Assistant Administrator for Fisheries.

(d) Written plan of preventive medicine prepared and to be implemented by the attending veterinarian that includes:

1. Policy on veterinary coverage, identifying each affiliated veterinarian, protocols and schedules and weighing and medicating animals.

2. Policy on quarantine.

3. Necropsy protocol including sample necropsy form and identification of pathological and other laboratory support. Necropsies must also include a summary of the medical history of any dolphin that dies including its involvement in the swim program *i.e.*, duration, schedules, total interaction times.

(e) Detailed assessment by a qualified marine mammal veterinarian of the current (baseline) health and behavior patterns of each participating dolphin, to be used throughout the program to detect and/or determine the significance of any change(s) in the health or bahavior of the dolphins as a result of their participation in the SWTD program.

(f) Description of the monitoring program that will be used to detect and/or determine the cause(s) and significance of any changes in the health or bahavior of any dolphin as a result of the authorized activities. The research study referred to in Special Condition D.2 may result in the need to adjust health and behavioral monitoring requirements and/or programs.

(g) Detailed description of the training each dolphin has undergone or will undergo prior to its participation in the SWTD program (see Special Condition D.6.(b) requirement).

(h) Curriculum vitae for the SWTD's professional staff and other individuals who will be in any way responsible for the handling, feeding, or other care or maintenance of the dolphins (see Special Condition D.5 requirement).

D.4. Maintenance of comprehensive daily behavior, feeding, and health records is required. Records for each dolphin will include SWTD swim schedules and total interaction time by day, week, and month.

D.5. *Staff:* SWTD facilities must maintain a professional staff that includes individuls with the following minimum levels of experience:

(a) At least one permanent full-time management staff member with three (3) or more years experience in a professional or managerial position dealing with captive cetaceans;

(b) At least one full-time staff member with three (3) or more years experience in the training and care of captive cetaceans, in addition to the personnel above;

(c) At least one staff or consulting veterinarian who has at least two (2) years of experience (within the past 10 years) in cetacean medicine.

D.6. *Program requirements:* The extent of an individual dolphin's participation in a SWTD program should be determined by the SWTD professional staff, based on the animal's behavior patterns. Within these general guidelines, the following are required:

(a) Every dolphin must be examined by a qualified veterinarian and be certified as healthy before being admitted to the swim program. See requirements at Special Conditions D.3.(a) and D.8.(d).

(d) Each dolphin participating in a SWTD program must successfully complete a professionally directed training program of not less than six (6) months duration prior to its participation. This must include gate training.

(c) *Time of interaction:* Periods of continuous exposure must not exceed two (2) hours with equal intervals for rest. Dolphins must have one period each 24 hours of no less than 10 continuous hours respite from swimmers and other human-related activities.

(d) Human swim participant/dolphin ratio must not exceed 2:1.

(e) *Supervision of swim sessions:* All SWTD activities in which a member of the public participates in in-water encounters with dolphins must be directly supervised by the Permit Holder's training staff. At least one member of the Permit Holder's staff must be in the water during the swim session. In addition, at least one member of the staff must monitor activities from poolside out of the water.

(f) A qualified and locally available veterinarian must be on call, but not necessarily present, during each human/dolphin encounter.

(g) The dolphins must be provided with adequate escape access from the swimming area should they choose to terminate the human/dolphin encounter, and adequate security must be provided at all times to prevent humans from harassing or injuring the dolphins.

(h) Participants shall not be permitted to attempt to restrain, pull or grab at dolphins.

(i) Dolphins demonstrating signs of undesirable behavior, i.e., sexual or physical aggression towards humans, withdrawal, or reluctance to participate, will be removed immediately from the swim session and shall not participate again until these behaviors have been eliminated. These behaviors should be clearly noted in daily monitoring records as required by D.4.

(j) Animals that respond adversely to encounters must be removed from the program until such time as their health is restored and/or their behavior poses no risk to humans involved in the program. Dolphins must be removed from swims with members of the public while on medication for infectious illness or a debilitating condition. The program must be suspended immediately if a dolphin shows signs of program-related health problems or undesirable behavior as a result of the SWTD program.

D.7. *Participant limitations:* Permit Holders shall obtain a brief health profile of all participants. The following shall be excluded from swim programs: (a) individuals with upper respiratory disease or on medication that suppresses immune function; (b) persons with open sores or other outward signs of illness; and (c) infants.

D.8. *Immediate reporting:* The Permit Holder must advise the Director, Office of Protected Resources, NMFS, Silver Spring, Maryland 20910 (Telephone: 301–427–2332 or Fax: 301–588–4967) within 24 hours when any of items (a)–(c), cited below, occur. Written confirmation must be received within seven (7) calendar days.

(a) Death—following notification of NMFS, a necropsy report must be prepared according to Special Condition D.3.(d)3. and submitted to NMFS within 30 days.

(b) Injury to any participating dolphin or human—detailed follow-up reports, including and name(s) and address(es) of injured person(s), shall be incorporated into the quarterly reports as specified in Special Condition D.9.(e).

(c) Adoption of any program changes that might cause additional stress to, or otherwise have an adverse effect on, the health or behavior of any participating dolphin.

(d) Removal or addition of an individual dolphin from or to the SWTD program; the reason(s) for the removal or addition; and health certification for newly added dolphins.

(e) Changes in Permit Holder or personnel comprising the professional staff.

D.9. *Quarterly Reporting Requirements:* The Permit Holder must submit the following quarterly reports:

(a) Statistical summaries detailing the number of people by age and sex that participated in the SWTD program in the preceding quarter;

(b) Statistical summaries showing the number of times and the number of hours, by day, week, and month, that each dolphin participated in the SWTD program;

(c) A summary and assessment of dolphin behavioral records and monitoring as specified by Special Conditions D.3.(f) and D.4.

(d) The attending veterinarian must provide a separate medical report for each dolphin, summarizing clinical history, relevant observations, medications and other treatments;

(e) Detailed descriptions of any encounters that resulted in, or possibly could have resulted in, injury to a human or dolphin participating in the SWDT program in addition to immediate notification specified in Special Conditions D.8.(b);

(f) Descriptions of any changes made in the SWTD program to improve the safety, educational, or other aspects of the program.

The reports must cover the following periods and be submitted by the due dates indicated.

Period	Date due
July 1–Sept. 30, 1990	Oct. 15, 1990.
Oct. 1– Dec. 30, 1990	Jan. 15, 1991.
Jan. 1-March 31, 1991	Apr. 15, 1991.
April 1-June 30, 1991	July 15, 1991.
July 1-Sept. 30, 1991	Oct. 15, 1991.
Oct. 1-Dec. 31, 1991	Jan. 15, 1992.

D.10. By authorizing this program, NMFS assumes no liability for physical or other injuries or harm to individuals participating in the experimental SWTD program. This fact must be reflected in any liability waivers or program instructions prepared by and for the Permit Holder.

D.11. Program instructions prior to swim sessions must inform swim participants that SWTD programs are experimental and present some potential risk of injury or disease transmission. Swim participants must be informed that facilities for showering with soap and water before and after swim sessions are available, and recommended by NMFS. Additionally, swim participants must be provided with the NMFS address (see Special Condition D. 8.) so that they may comment on this experimental program or report injuries.

D.12. The Permit Holder's facilities, records, and operations relating to the SWTD program shall be available for inspection at any time by a duly authorized representative of the Assistant Administrator for Fisheries.

D.13. The failure of a Permit Holder or its agents to comply in any respect with the foregoing permit conditions constitutes grounds for immediate suspension or permanent revocation of any or all of the Permit Holder's SWTD program permit(s), and the Permit Holder or its agent is subject to any other penalty provided for in the Marine Mammal Protection Act or under U.S. Law.

Documents concerning the above modifications and permits, and other information regarding Swim-with-the-Dolphin Programs, are available for inspection in the Office of Protected Resources, NMFS, Room 7324, 1335 East West Highway, Silver Spring, Maryland.

This modification is effective on July 1, 1990.

Dated: June 29, 1990.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 90–15824 Filed 7–6–90; 8:45 am]

BILLING CODE 3510–22–M

COMMISSION ON MINORITY BUSINESS DEVELOPMENT

[90–N–6]

Meeting and Hearing

AGENCY: Commission on Minority Business Development.

ACTION: Notice of meeting and public hearing.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting and public hearing of the Commission on Minority Business Development will be held on Thursday, July 26, 1990 and Friday, July 27, 1990 respectively in Miami, Florida. Both meetings are open to the public.

The July 26th meeting will convene at 2:00 p.m. at the Miami-Dade Government Center, 111 Northwest First Street, Commission Chambers, Second Floor, Miami, Florida.

The meeting agenda will include review of the minutes of the Commission's last meeting, consideration of old business and consideration of new business.

The July 27th public hearing will begin at 9 a.m. at the Miami-Dade Government Center, III Northwest First Street, Commission Chambers, Second Floor, Miami, Florida.

The public hearing is for purposes of receiving testimony from public and private sector decision-makers and entrepreneurs, professional experts, corporate leaders and representatives of key interest groups and organizations concerned about minority business development and participation in federal programs and contracting opportunities.

The Commission was established by Public Law 100–656, for purposes of reviewing and assessing federal programs intended to promote minority business and making recommendations to the President and the Congress for such changes in laws or regulations as may be necessary to further the growth and development of minority businesses.

FOR FURTHER INFORMATION CONTACT: Susan Gonzales or Arlene Pinkney at (202) 523–0030, Commission on Minority

Business Development, 730 Jackson Place, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: Minutes of the meeting and hearing transcripts will be available for public inspection during regular working hours at 730 Jackson Place, NW., Washington, DC 20006 approximately 30 days following the meeting and hearing.

Dated: June 27, 1990.

André M. Carrington,

Executive Director.

[FR Doc. 90-15724 Filed 7-6-90; 8:45 am]

BILLING CODE 6820-PB-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1990 commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 8, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On February 23, April 27, May 11 and 18, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (55 FR 6415, 17804, 19772 and 20624) of proposed additions to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540).

After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1990:

Commodities

Cloth, Wiping, Low-Lint
7930-00 NSH-0005
(Requirements for Charleston Naval Supply Center, Charleston, South Carolina only)

Comb, Hair
8530-01-293-1384
8530-01-293-1385

Services

Commissary Shelf Stocking
Naval Air Station, Whiting Field, Milton, Florida

Janitorial/Custodial
Dayton, Ohio at the following locations:
Federal Building and U.S. Courthouse, 200 West Second Street
Federal Parking Facility, Third and Perry Streets

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 90-15844 Filed 7-6-90; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1990; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1990 commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 8, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1990, which was published on November 3, 1989 [54 FR 46540]:

Commodities

Clamp, Loop
5340-00-182-9681
5340-00-410-2972
5340-00-410-2973
5340-00-410-2974
5340-00-410-2975
5340-00-410-6441
5340-00-411-2953
5340-00-420-1747
5340-00-420-1749
5340-00-460-4522
5340-00-460-4524
5340-00-562-2947
5340-01-018-8983

Box, Wood, Nailed
8515-00-M00-0020
(Requirements of Pine Bluff Arsenal, Arkansas only)

Services

Janitorial/Custodial
Federal Building and U.S. Customhouse, 721 19th Street, Denver, Colorado

Janitorial/Custodial
Asheville, North Carolina at the following locations:
Federal Building, Battery Park Avenue
U.S. Post Office and Courthouse, Otis and Post Streets

Operation and Base Information Transfer Center
Maxwell Air Force Base and Gunter Air Force Base, Alabama

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 90-15845 Filed 7-6-90; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of the Southeastern Region Fiscal Intermediary Managed Care Program.

SUMMARY: The Assistant Secretary of Defense for Health Affairs has made arrangements for a Southeastern Region Fiscal Intermediary Managed Care Program in the five state CHAMPUS Southeastern fiscal intermediary (FI) region (Florida, Georgia, Alabama, Mississippi, and Tennessee). Under this project, Wisconsin Physicians Service (WPS), the CHAMPUS FI for the Southeastern region, will establish a preferred provider organization (PP) network called "CHAMPUS SELECT." Beginning with the effective date of this notice, activities under the FI contract, which commenced on July 1, 1990, will include provisions for a reduction of normal CHAMPUS cost sharing requirements, coverage of certain preventive health care services for CHAMPUS beneficiaries using CHAMPUS SELECT providers, waiver of restrictions of benefits in case management situations, and utilization management activities, which include mandatory precertifications.

This notice, published in accordance with 32 CFR 199.1(o), informs the public of the changes in normally applicable requirements and procedures relating to this program.

DATES: Implementation starting date for the above described modification is August 8, 1990.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900.

FOR FURTHER INFORMATION CONTACT: Lt Col Christopher Pool, Office of the Assistant Secretary of Defense for Health Affairs (Health Services Financing), (202) 695-3331.

SUPPLEMENTARY INFORMATION: The Southeastern Region Fiscal Intermediary Managed Care Program, called "CHAMPUS SELECT," is a continuation of a demonstration begun July 1, 1988, described in the **Federal Register**, Vol 53, No. 103, dated May 27, 1988. It centers on the establishment and operation by WPS of preferred provider networks in the states of Florida, Georgia, Alabama, Mississippi, and Tennessee. CHAMPUS SELECT is designed to reduce CHAMPUS health care costs by providing a network of cost efficient providers coordinated with the local military hospital.

Under CHAMPUS SELECT, care received from network providers will result in reduced beneficiary cost shares. For active duty dependents receiving inpatient care, there will be no cost share (waiving the $8.35 daily rate or $25 whichever is greater); for outpatient care, the cost share will be 15 percent (a 5 percent reduction). For retirees, their dependents, and survivors, the cost share for outpatient claims will be 20 percent (a 5 percent reduction); for inpatient services, the cost share will be $235 per day or 15 percent, whichever is less (a reduction of 10 percent from standard CHAMPUS). The daily inpatient rates are subject to annual revision.

The program will also include new preventive health care services for beneficiaries receiving care from network providers. The new services are Pap tests and mammography in accordance with nationally accepted standards. Also, as a substitute for inpatient mental health acute care days, partial days of hospitalization will be allowed for mental health treatment. The annual inpatient mental health benefit is 60 days; two partial days will equal one inpatient day.

Case management focuses on high cost, chronic, catastrophic, or recurrent diseases, and mental health care. Exceptions to benefits which case managers may authorize, when cost effective, include (but are not limited to) disposable supplies, duplicate durable medical equipment, nursing assistance, home health aides, and certain therapies not normally covered.

Utilization management activities include (1) admission and continued stay review which will be performed to determine that the hospital admission and continued stay are certifiable as medically necessary and appropriate; and (2) review of select outpatient procedures prior to receiving the treatment. When receiving treatment from a CHAMPUS SELECT provider, preauthorization will be required for all elective inpatient and all mental health admissions at least five days prior to admission; emergency admissions will require certification within two days after admission; outpatient mental health treatment will be reviewed after the twentieth session and if more than two sessions a week will be required. In addition, for CHAMPUS SELECT providers preauthorization will be required for selected outpatient procedures. These include, but are not limited to, CT scans, MRI scans, and tonsillectomy and/or adenoidectomy procedures. Claims may be denied if the preauthorization is not obtained. Beneficiaries and providers will have appeal rights in the event of denial.

This notice is issued under CHAMPUS demonstration project authority. We are considering development of a revision under the authority of 10 U.S.C. 1097 to the CHAMPUS Regulation, which would establish under permanent regulatory authority the provisions described in this notice. If we decide to proceed with this, we will issue a proposed rule for public comment, most likely within the next six months. If no such regulatory change is adopted, the duration of this notice shall be two years.

Dated: July 3, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 90-15799 Filed 7-6-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board, Meeting

June 29, 1990.

The USAF Scientific Advisory Board Munition Systems Division Advisory Group will meet on 31 July 90 from 8 a.m. to 5 p.m. at Eglin AFB, Florida.

The purpose of this meeting is to review the status of the theater analysis modeling for conventional weapons. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-15725 Filed 7-6-90; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board Meeting

June 28, 1990.

The USAF Scientific Advisory Board Logistics Cross-Matrix Panel will meet on 7 September 90, from 8:00 a.m. to 5:00 p.m., at the HQ Air Force Logistics Command (AFLC), Wright-Patterson AFB OH. The purpose of the meeting is to brief the AFLC/CC on the results of the Automatic Test Equipment (ATE) review. The request for the closed meeting is based on the fact that discussions on classified defense

matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-15726 Filed 7-6-90; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Energy Information Administration Form EIA-714, "Annual Control Area and Electric System Report"

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of proposed revision and extension of the Form EIA-714, "Annual Control Area and Electric System Report," and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. 3501 *Et seq.*), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, EIA is soliciting comments concerning the proposed revision and extension to the Form EIA-714, "Annual Control Area and Electric System Report."

DATES: Written comments must be submitted on or before August 8, 1990. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the DOE contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Mr. John W. Makens, Energy Information Administration, Department of Energy (EI-541), Washington, DC 20585, Telephone (202) 254-5629.

FOR FURTHER INFORMATION OR TO OBTAIN COPIES OF THE PROPOSED FORM AND INSTRUCTIONS: Requests for additional information or copies of the form and instructions should be directed to Mr. Makens at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93-275) and the Department of Energy (DOE) Organization Act (Pub. L. 95-91), the Energy Information Administration (EIA) is obliged to carry out a central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The Energy Information Administration (EIA) of the Department of Energy (DOE) and the Federal Energy Regulatory Commission (FERC) are proposing to collect basic operating information annually regarding electric production, energy transfers, loads, and maps and diagrams of facilities on a system basis from electric utilities, control areas, powerpools, and holding companies. The EIA will use the information collected on this form for its forecasting and analysis responsibilities. Studies include analysis of electric utility operations under innovative transmission arrangements governing interstate electricity trade; in response to emergency or brownout conditions due to droughts, storms, other weather occurrences, and natural disasters; overload of the electrical system due to extremely high demand; and loss of electrical facilities. Responses are also used by the FERC to evaluate utility operations related to hydroelectric license approvals, market concentration analyses, proposed mergers, proposed interconnections, and wholesale rate investigations. The survey will be required of all control areas. The report will be submitted for each control area by any electric utility which operates a control area and any group of electric utilities, which through pooling contracts, holding company operations or other contracting arrangements, operates a single control area.

Additionally, an electric utility or group of electric utilities, which operate an integrated electric system that had a peak load of more than 200 megawatts (MW) based on "net energy for load" during the reporting year, will file the schedules identified for each electric system. Electric utilities filing for a control area must compete several new schedules related to the control area operations. These additional schedules replace equivalent schedules from the "Annual Electric Power System Report" and include requests for data associated with control area operations. The above respondents include the Federal Power Marketing Administrations (except Southeastern), the Tennessee Valley Authority, and the International Boundary and Water Commission. Selected schedules are also required from U.S. Trust Territories and the Commonwealth of Puerto Rico.

II. Current Actions

The Form EIA-714 is being extended for a 3-year period with the following changes. Two schedules, "System Load Data by Specified Week" and "System Hydroelectric Data," which were required every 5th year, and which were previously used to collect 1985 data, will be used to collect the same data for the 1990 reporting year and annually thereafter. The additional schedules required for control areas cover the reporting of annual electric system generation within and electricity transfers between the control areas. The instructions have been revised for clarification with emphasis on obtaining information that should be readily available in the normal course of utility business.

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed extension and revisions. The following general guidelines are provided to assist in the preparation of responses. As a potential respondent:

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted in accordance with the response time specified in the instructions?

D. Public reporting burden for this collection is estimated to average 68 hours per response. How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form?

E. What is the estimated cost of completing the form, including the direct and indirect costs associated with the data collection? Direct cost should

include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know of other Federal, State, or local agencies that collect similar data. If yes, specify the agency, data elements and means of collection.

As a potential data user:

A. Can you use data at the level of detail indicated on the form?

B. For what purpose would you use the data? Be specific.

C. How could the form be improved to better meet your specific needs?

D. Are there alternate sources of data? What are their deficiencies and/or strengths? How do you use them?

The EIA is also interested in receiving comments from persons regarding their views on the need for the collection of the information contained in the "Annual Control Area and Electric System Report." Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the form; they also will become a matter of public record.

Authority: Sections 5(a), 5(b), 13(b), and 52 of Pub. L. 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b) and 790a; sec. 4(a), 304, 309, and 311 of the Federal Power Act, 16 U.S.C. 797a, 825c, 825h, and 825j; sec. 3(4) of the Public Utility Regulatory Policies Act, 16 U.S.C. 2602; and sec. 205, Pub. L. 95-91, Department of Energy Organization Act, 42 U.S.C. 7135.

Issued in Washington, DC, July 2, 1990.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 90-15846 Filed 7-6-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER90-467-000, et al.]

Tampa Electric Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

June 29, 1990.

Take notice that the following filings have been made with the Commission:

1. Tampa Electric Company

[Docket No. ER90-467-000]

Take notice that on June 25, 1990, Tampa Electric Company (Tampa Electric) tendered for filing a Contract for Interchange Service between Tampa Electric and the City of Homestead, Florida (Homestead). The Agreement was supplemented with Service Schedules A, B, C, D, J, and X, providing for emergency, scheduled/short-term, (short-term) economy, long-term, negotiated, and extended economy interchange service, respectively. Tampa Electric states that the Contract and accompanying Schedules supersede Tampa Electric's Rate Schedule FERC No. 9.

Tampa Electric proposes an effective date of June 25, 1990, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Homestead and the Florida Public Service Commission.

Comment date: July 16, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Warbasse-Cogeneration Technologies Partnership L.P.

[Docket No. QF88-438-001]

On June 20, 1990, Warbasse-Cogeneration Technologies Partnership L.P. (Applicant), 900 Park Avenue, Suite 19E, New York, New York 10021, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The dual-fuel topping-cycle cogeneration facility is located in Kings County, Brooklyn, New York. The final configuration of the facility will comprise of three boilers and two steam turbine generator units (all were in operation since the mid 1960's); the certified facility (*See*, QF88-438-000) which includes three natural gas and three diesel engine generators; and, the proposed addition which will include the new dual-fuel turbine generators. Thermal energy recovered from the facility will be sold to an unaffiliated entity, the Amalgamated Warbasse Houses, Inc., for space heating and cooling and domestic hot water production for a housing project. The primary energy sources of the facility will be natural gas. No. 2 fuel oil will be used as a backup or supplemental fuel. The expansion of the facility is expected to begin in fall 1990.

The certification of the original application was issued on August 9, 1988 (44 FERC ¶ 62,115). The recertification of the instant application is requested due to an ownership change, an increase in the electric power production capacity from 6.9 MW to 49 MW, and a change in the configuration of the facility.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

3. Turner Falls Limited Partnership

[Docket No. QF86-39-003]

On June 18, 1990, Turner Falls Limited Partnership (Applicant) of 1111 S. Willis Street, Wheeling, Illinois 60090, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The original application was filed on October 15, 1985, by Indeck Energy Services, Inc. and certification was granted on January 8, 1986, 34 FERC ¶62,043 (1986). The Commission recertified the facility on February 11, 1987, 38 FERC ¶62,142 (1987) and a notice of self-recertification was filed on May 27, 1987. The instant recertification is requested to reflect that the facility includes a 1.2 mile transmission line which will interconnect with the 115 kV transmission system of New England Power Company and that the net electric power production capacity has increased from 17.85 MW to 21.95 MW. In all other respects, the facility remains essentially the same as that previously certified.

In addition to requesting recertification, Applicant requests waiver of § 292.304 of the Commission's regulations and the Commission's standard for determining the electric power production capacity of a qualifying facility.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

4. Texas Utilities Electric Company

[Docket No. ER90-223-000]

Take notice that on June 18, 1990, Texas Utilities Electric Company (TU Electric) tendered for filing revised Exhibits C-1 to TU Electric's Service Agreements with Public Service Company of Oklahoma and Southwestern Electric Power Company under TU Electric's FERC Electric Tariff, Second Revised Volume No. 1, for Transmission service to, from and over certain HVDC Interconnections.

Comment date: July 16, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Alabama Power Company

[Docket No. ER90-469-000]

Take notice that on June 25, 1990, Alabama Power Company (Alabama) tendered for filing certain revised Delivery Point Specification Sheets under the Agreement for Partial

Requirements Service and Complementary Services (PR Agreement) between Alabama and the Alabama Municipal Electric Authority (AMEA). The effect of the filing is to update the delivery points for the Cities of Alexander City, Dothan and Opelika that receive service under the PR Agreement. The revised Delivery Point Specification Sheets are executed by Alabama, AMEA and the affected member municipalities.

Comment date: July 16, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Alabama Power Company

[Docket No. ER90-468-000]

Take notice that on June 25, 1990, Alabama Power Company (APCo) tendered for filing a Transmission Service Delivery Point Agreement dated March 31, 1990, which adds the Prattville delivery point of Central Alabama Electric Cooperative to those covered by the Agreement for Transmission Service to Distribution Cooperative Members of Alabama Electric Cooperative, Inc., dated August 28, 1980 (designated FERC Rate Schedule No. 147). APCo previously served this delivery point under the terms and conditions of Rate Schedule REA-1. The parties request an effective date for the Transmission Service Delivery Point Agreement of March 31, 1990, which corresponds to the date this delivery point was deleted from Rate Schedule REA-1.

Comment date: July 16, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. Central Maine Power Company

[Docket No. ER90-471-000]

Take notice that on June 26, 1990, Central Maine Power Company (CMP), tendered for filing an executed Letter Agreement between CMP and Massachusetts Municipal Wholesale Electric Company (MMWEC) dated October 31, 1988, and an unexecuted Transmission Service Agreement between CMP and MMWEC effective as of November 1, 1988.

The Letter Agreement and Transmission Service Agreement cover transmission service for MMWEC of 100 MW of capacity the New Brunswick Pt. Lepreau for the period November 1, 1988, through October 31, 1991.

CMP requests that the Commission waive its notice and filing requirements to permit the Agreements to become effective in accordance with their terms.

CMP has served copies of the filing on the affected customer and on the Maine Public Utilities Commission.

Comment date: July 16, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. PacifiCorp, doing business as Pacific Power & Light and Utah Power & Light

[Docket No. ER90-463-000]

Take notice that PacifiCorp, doing business as Pacific Power & Light and Utah Power & Light (PacifiCorp), on June 25, 1990, tendered for filing, in accordance with § 35.30 of the Commission's Regulations, PacifiCorp's Revised Appendix 1 for the state of Montana and Bonneville Power Administration's (Bonneville's) Determination of Average System Cost (ASC) for the state of Montana (Bonneville's Docket No. 5-A4-8901) dated June 4, 1990. The Revised Appendix 1 calculates the ASC for the state of Montana applicable to the exchange of power between Bonneville and PacifiCorp.

PacifiCorp requests waiver of the Commission's notice requirements to permit this rate schedule to become effective November 3, 1989 which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Montana Public Service Commission, and Bonneville's Direct Service Industrial Customers.

Comment date: July 16, 1990, in accordance with Standard Paragraph E at the end of this notice.

9. Dayton Power and Light Company

[Docket No. ER90-466-000]

Take notice that Dayton Power and Light Company (DP&L) tendered for filing on June 25, 1990, a proposed modification to the Interconnection Agreement dated as of January 1, 1979, between DP&L and the Cincinnati Gas & Electric Company (CG&E).

The proposed modification revises rates in existing rate schedules A, B, D, and E. There is no estimate of increased revenues since transactions will occur only as load and capacity conditions dicate. An August 24, 1990, effective date has been requested.

A copy of the filing was served upon CT&E and the Public Utilities Commission of Ohio.

Comment date: July 16, 1990, in accordance with Standard Paragraph E at the end of this notice.

10. Dayton Power and Light Company

[Docket No. ER90-465-000]

Take notice that the Dayton Power and Light Company (DP&L) tendered for filing on June 25, 1990, a proposed modification to the Interconnection Agreement dated as of May 1, 1967, between DP&L and the Ohio Power Company (Ohio Power).

The proposed modification revises rates in existing rate schedules B, E, F, and H. There is no estimate of increased revenues since transactions will occur only as load and capacity conditions dicate. An August 24, 1990, effective date has been requested.

A copy of the filing was served upon Ohio Power and the Public Utilities Commission of Ohio.

Comment date: July 16, 1990, in accordance with Standard Paragraph E at the end of this notice.

11. Alabama Power Company

[Docket No. ER90-470-000]

Take notice that on June 25, 1990, Alabama Power Company (APCo) tendered for filing Amendment No. 3 to the Interconnection Agreement dated May 5, 1980 between APCo and Alabama Electric Cooperative, Inc. The effect of this Amendment is to add two interconnection points to those existing and planned interconnection points presently listed in the agreement. These additions will not have any effect on the rates reflected in the Interconnection Agreement, as amended.

Comment date: July 16, 1990, in accordance with Standard Paragraph E at the end of this notice.

12. Dayton Power & Light Company

[Docket No. ER90-464-000]

Take notice that Dayton Power and Light Company (DP&L) tendered for filing on June 25, 1990, a proposed modification to the Interconnection Agreement dated as of September 15, 1967, between DP&L and the Ohio Edison Company (Ohio Edison).

The proposed modification revises rates in existing rate schedules A, B, and D. There is no estimate of increased revenues since transactions will occur only as load and capacity conditions dictate. An August 24, 1990, effective date has been requested.

A copy of the filing was served upon Ohio Edison and the Public Utilities Commission of Ohio.

Comment date: July 16, 1990, in accordance with Standard Paragraph E at the end of this notice.

13. Public Utility Board of the City of Brownsville, Texas, et al. v. Central Power & Light Company

[Docket No. EL90-36-000]

Take notice that on June 25, 1990 the Public Utilities Board of the City of Brownsville, Texas (Brownsville); South Texas Electric Cooperative, Inc. and Medina Cooperative, Inc. (collectively

STEC/MEC); Rio Grande Electric Cooperative, Inc.; Magic Valley Electric Cooperative, Inc., and Kimble Electric Cooperative, Inc. (collectively Texas Cooperatives); and the City of Robstown, Texas (Robstown) (jointly Complainants) tendered for filing a complaint on the Level A rates filed by Central Power & Light Company in Docket No. ER90-289-000.

Complainants request that the Commission investigative CP&L's Level A rates and provide appropriate relief.

Comment date: July 30, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15747 Filed 7-6-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC89-5-001]

Southern California Edison Co. and San Diego Gas and Electric Co.; Intent To Prepare an Environmental Assessment and Notice of Public Scoping Meetings

June 29, 1990.

The Federal Energy Regulatory Commission (Commission) is processing a joint application from the Southern California Edison Company (Edison) and the San Diego Gas and Electric Company (San Diego) seeking approval of a merger under section 203 of the Federal Power Act, 16 U.S.C. 824b (1982). If the proposed merger is approved, all of the facilities of San Diego would be owned and controlled by Edison. Various issues have been raised in the proceeding, including air quality impacts on the affected air basins. The Commission has directed staff to prepare an environmental assessment (EA) of the proposed merger in accordance with the National Environmental Policy Act.

Scoping Meetings

On Tuesday, July 17, 1990, and Wednesday, July 18, 1990, the staff will be conducting public scoping meetings in San Diego and Los Angeles, California, respectively. The meeting in San Diego will be from 7 p.m. to 10:30 p.m., with time added as required to receive public comments, in the North Terrace Room of the San Diego Convention and Performing Arts Center, 202 C Street, San Diego, CA 92101. The next day, Wednesday, July 18, 1990, the staff will conduct a technical scoping session in Los Angeles oriented toward resource agencies and parties on the Commission's service list from 9:30 a.m. to 11 a.m., followed by an opportunity for additional public comments from 11 a.m. to 1 p.m., with additional time added as required, at the Belvedere Park Social Hall, 4914 E. Brooklyn Avenue, Los Angeles, CA 90022.

All interested individuals, organizations, and agencies are invited to attend and assist the staff in identifying the scope of the environmental issues that should be analyzed in the upcoming EA.

Objectives

At the scoping meetings the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the planned EA, (2) encourage statements from the public and experts on the issues that should be analyzed in the EA, including points of view in opposition to, or in support of, the staff's preliminary views; and (3) solicit from the meeting participants all available information, especially quantified data, on the potential environmental impacts of the merger.

Procedures

The meetings will be recorded by a stenographer and thereby become a part of the formal record of the Commission proceeding on the proposed Edison and San Diego merger. Individuals presenting statements at the meetings will be asked to clearly identify themselves for the record.

Organizations, agencies and individuals with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Persons choosing not to speak at the meetings, but who have views on the issues or information relevant to the issues, may submit written statements for inclusion in the public record. In addition, written scoping comments may be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 until July 30, 1990. All correspondence should clearly reference the Southern California Edison Company and San Diego Gas and Electric Company, Docket No. EC89-5-001.

A draft scoping document outlining subject areas to be addressed at the meetings will be distributed by mail to all parties on the Commission's service list for this proceeding and to the resource agencies.

Participants are asked to refrain from engaging the staff in discussion of the merits of the merger since the Commission has set that matter for hearing before an administrative law judge.

For more information please contact S. Lee Emergy at (202) 357-0779.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15748 Filed 7-6-90; 8:45 am]

BILLING CODE 6717-01-

[Docket Nos. CP90-1567-000, et al.]

National Fuel Gas Supply Corp., et al.; Natural Gas Certificate Filings

June 28, 1990.

Take notice that the following filings have been made with the Commission:

1. National Fuel Gas Supply Corporation

[Docket No. CP90-1567-000]

Take notice that on June 18, 1990, National Fuel Gas Supply Corporation (National), Ten Lafayette Square, Buffalo, New York 14203, filed an abbreviated application pursuant to sections 7(b) and 7(c) of the Natural Gas Act and part 157 of the Regulations under the Natural Gas Act (18 CFR 157), for a certificate of public convenience and necessity authorizing a new interruptible sales service of natural gas under a proposed Rate Schedule SOS to five customers [1] currently served by National under its Rate Schedules CD and SI, and for authority for partial, temporary abandonment of firm service under Rate Schedule CD to those customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

[1] New Jersey Natural Gas Company, Elizabethtown Gas Company, Brooklyn Union Gas Company, Public Service Electric and Gas Company, and Consolidated Edison of New York, Inc.

National states that the proposed service, to be known as system offset service (proposed Rate Schedule SOS), would serve as an important complement to National's interruptible sales service under Rate Schedule SI. It would allow National to respond to the needs of its CD customers during extreme weather conditions without jeopardizing the winter period requirements of its other firm sales and transportation customers. National would later require those CD customers purchasing under Rate Schedule SOS to offset their SOS purchases by temporarily reducing takes under Rate Schedule CD, if such action is deemed necessary by National.

National states this application involves no new rates or facilities. National proposes to provide this service at rate levels already approved by the Commission and through the use of existing facilities. National proposes to charge the 100% load factor equivalent of its firm sales rate for the SOS service.

Comment date: July 19, 1990, in accordance with Standard Paragraph F at the end of this notice.

2. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP90-1603-000]

Take notice that on June 22, 1990, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77251-1188, filed in Docket No. CP90-1603-000 an application pursuant to section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon the Stevens County No. 5 Compressor Station (Station) consisting of two (2) 1,200 HP electric units, located in Stevens County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that the compressors were installed in September, 1977, pursuant to an order issued on May 23, 1977, in Docket No. CP77-99. Northern further states that these two electric compressor units are serviced by Pioneer Electric Company (Pioneer) under a contract which requires Northern to pay Pioneer a monthly demand payment of $5,000 regardless of whether the units are operational or not. Northern indicates that it has tried to negotiate with Pioneer to eliminate this $60,000 annual expense and has been unsuccessful.

Northern states that the Station has not been utilized for some time because compression has not been needed for several years to maintain deliveries of system supply. Northern further states that compression located at the Stevens County No. 1 Compressor Station provided all the required compression. It is indicated that Northern anticipated that further development in the area and that additional purchases were anticipated which would have required use of the Station; however, due to certain market conditions, releases of gas and deliverability declines, this did not occur.

Northern states that the abandonment of these units, therefore, would not result in abandonment of service to any of its existing customers or producers, nor would the proposed abandonment adversely effect capacity since this compression is no longer needed to maintain system supply. Northern further states that it wishes to abandon the Station in order to eliminate the $60,000 annual demand charges.

Comment date: July 19, 1990, in accordance with Standard Paragraph F at the end of the notice.

3. Williston Basin Interstate Pipeline Company

[Docket Nos. CP90-1617-000, CP90-1618-000, and CP90-1619-000]

Take notice that Williston Basin Interstate Pipeline Company, Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, (Applicant), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP89-1118-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: August 13, 1990, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket Number (date filed)	Shipper name (type)	Peak day average day annual docket	Receipt points	Delivery points	Contract date rate schedule service type	Related docket, startup date
CP90-1617-000 (6-26-90)	Western Gas Processors, Ltd. (Producer).	23,625 16,800 8,623,125	ND, WY, MT	WY, MT	5-25-90 [3], IT-1, Interruptible.	ST90-3330-000 (6-1-90).
CP90-1618-000 (6-26-90)	Conoco, Inc. (Producer).	17,565 13,812 6,411,225	WY, ND	MT, WY, ND	5-22-90, IT-1, Interruptible.	ST90-3331-000 (6-1-90).
CP90-1619-000 (6-26-90)	Hiland Partners (Producer).	53,100 15,000 19,381,500	WY, MT, ND, SD	WY, MT, SD, ND	5-25-90 [3], IT-1, Interruptible.	ST90-3329-000 (6-1-90).

[3] As amended June 11, 1990.
[3] As amended June 5, 1990.

4. United Gas Pipe Line Company

[Docket No. CP90-1094-001]

Take notice that on June 22, 1990, United Gas Pipe Line Company (United), 600 Travis Street, P.O. Box 1478, Houston, Texas 77251-1478, filed an amendment to its application in Docket No. CP90-1094-000 to provide that the abandonment be effective April 1, 1992, all as more fully set forth in the application and amendment which is on file with the Commission and open to public inspection.

United states that on March 29, 1990, that it filed an application in Docket No. CP90-1094-000 pursuant to section 7(b) of the Natural Gas Act to abandon an exchange service with Mid Louisiana Gas Company (Mid-La) under United's Rate Schedule X-24. United further states that on May 1, 1990, Mid-La filed a protest to the proposed abandonment. United explains that as a result of settlement discussions between United and Mid-La, the parties agreed that the exchange service under Rate Schedule X-24 would terminate and be abandoned as of April 1, 1992. Therefore, United proposes to amend its application in Docket No. CP90-1094-000 so as to request that the abandonment be effective April 1, 1992.

Comment date: July 19, 1990, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. Northern Natural Gas Company, a Division of Enron Corp.

[Docket No. CP90-1593-000]

Take notice that on June 20, 1990, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP90-1593-000 an application pursuant to section 7(c) of the Natural Gas Act for issuance of a certificate of public convenience and necessity authorizing the increase of 5,200 Mcf of natural gas day of sales entitlements for Northern States Power Company (NSP), a gas utility customer serving certain communities in Minnesota, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In order for NSP to serve new and increased requirements in and around the community of St. Paul, Minnesota, Northern requests authorization to increase its certificated sales entitlements to NSP by a total of 5,200 Mcf per day, under Northern's Seasonal Service Demand Schedule, Rate Schedule SS-1. Northern states, pursuant to an executed service agreement dated May 25, 1990, that the increased sales service would become effective on November 1, 1990 or on the date of the Commission's Order approving the instant application, whichever is later. Northern further states that the additional sales service could be accomplished without constructing new facilities or rearranging presently authorized facilities.

Comment date: July 19, 1990, in accordance with Standard Paragraph F at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP90-1608-000]

Take notice that on June 22, 1990, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90-1608-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to operate a sales tap to provide jurisdictional services, including transportation services under subpart G of part 284 of the Commission's Regulations, at an existing delivery point at an interconnection with LTV Steel Company, Inc. (LTV), an end-user, in Putnam County, Illinois.

It is stated that Natural installed one six-inch tap on its 20-inch Depue/Hennepin Lateral in Bureau County, Illinois, 6.2 miles of 8-inch pipeline in Bureau and Putnam Counties, Illinois and one six-inch meter in Putnam County, Illinois at a cost of $1,840,000. Natural explains that the facilities were placed in service on June 12, 1990 and have been used solely to provide transportation services pursuant to section 311(a)(1) of the Natural Gas Policy Act of 1978 and subpart B of part 284 of the Commission's Regulations. Natural states that based on typical operating pressures, the maximum daily delivery capacity of the facilities is approximately 40,000 Mcf per day.

It is stated that Natural is currently providing interruptible transportation services at the Bureau County, Illinois, delivery point under Rate Schedule ITS, pursuant to subpart B of part 284 of the Commission's Regulations. Natural states that it has received requests to provide transportation services at this delivery point pursuant to subpart G of part 284 of the Commission's Regulations and Rate Schedules ITS and FTS. Natural states that it has sufficient capacity to provide this service without detriment or disadvantage to Natural's peak day and annual delivery capability.

Comment date: August 13, 1990, in accordance with Standard Paragraph G at the end of this notice.

7. Natural Gas Pipeline Company of America

[Docket No. CP90-1620-000, CP90-1621-000, CP90-1622-000, CP90-1623-000, CP90-1624-000, and CP90-1625-000]

Take notice that on Applicants filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificate issued in Docket No. CP89-1121-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[3]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: August 13, 1990, in accordance with Standard Paragraph G at the end of this notice.

Applicant: Natural Gas Pipeline Company of America, 701 East 22nd Street, Lombard, IL 60148

Blanket Certificant Issued in Docket No.: CP86-582-000

[3] These prior notice requests are not consolidated.

Docket number (date filed)	Shipper name	Peak day [a] average annual	Points of		Start up date rate schedule	Related [a] dockets
			receipt	delivery		
CP90-1620-000 (06-26-90)	Continental Natural Gas Inc..	10,000 10,000 3,650,000	TX, OK, IA, IL, KS, NE....	NW.....	5-01-90, FTS	ST90-3252-000
CP90-1621-000 (06 25-90)	LL&E Gas Marketing Inc.	575,000 200,000 73,000,000	IL, OK, LA, offshore LA, NE, TX.	LA, Il, IA, KS, MO, offshore LA.	4-24-90, ITS	ST90-3160-000
CP90-1622-000 (06-26-90)	Phillips 66 Natural Gas Company.	50,000 25,000 9,125,000	TX, NM, OK.....	NM, TX.....	5-01-90, ITS	ST90-3180-000
CP90-1623-000 (06-26-90)	Equitable Resources Marketing Company.	200,000 500,000 18,250,000	TX, LA.....	LA, IL, IO, TX, AR.....	5-01-90, ITS	ST90-3179-000
CP90-1624-000 (06-26-90)	Phillips Petroleum Company.	50,000 20,000 7,300,000	TX, OK, NW.....	TX, NW.....	5-01-90, ITS	ST90-3181-000
CP90-1625-000 (06-26-90)	Gasmark, Inc.	75,000 30,000 10,950,000	NM, TX, offshore TX, OK, LA, offshore LA, CO, IL, AR, KS, NE.	IL, TX, IO, KS.....	4-26-90, ITS	ST90-3182-000

[a] Quantities are shown in MMBtu unless otherwise indicated.
[a] If an ST docket is shown, 120-day transportation service was reported in it.

8. Northern Border Pipeline Company

[Docket No. CP90-1557-000]

Take notice that on June 15, 1990, Northern Border Pipeline Company (Northern Border), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP90-1557-000, an abbreviated application pursuant to the Commission's optional certificate procedures, 18 CFR 157.100 *et seq.* requesting authorization to construct and operate expansion and extension facilities, all as more fully set forth in the application.

Northern Border states that the proposed expansion/extension project will consist of seven (7) additional compressor units and some 368 miles of 30-inch diameter pipeline and related facilities. According to Northern Border, the proposed optional certificate project tracks a route similar to that proposed in Northern Border's original expansion/extension project (Docket No. CP88-77-000, application withdrawn March 20, 1990), but is otherwise distinct in terms of shipper composition, pipeline size and capacity, operational characteristics and contemplated services.

The estimated total capital cost of the proposed facilities in second quarter 1990 dollars is approximately $373 million. Applicant plans to place the facilities in service by November 1, 1990. Applicant states that it proposes to finance the construction of the proposed facilities on a project financing basis.

Northern Border further states that the proposed expansion/extension will permit firm delivery of 1,286 MMcf/day at Ventura, Iowa (or points upstream of Ventura), which is an increase of 372.5 MMcf/day over existing deliveries, and 450 MMcf/day at the proposed new sytem terminus at Tuscola, Illinois (or points downstream of Ventura). In projecting the new gas volume in order to determine the facility requirements on the existing pipeline, Northern Border states that it assumed additional receipts of 275 MMcf/day from Great Plains. According to Northern Border, the design route of the extension facilities will potentially provide manifolds with the existing interstate systems of five (5) major pipeline companies, including ANR Pipeline Company, Natural Gas Pipeline Company of America, Northern Natural Gas Company, Panhandle Eastern Pipeline Company and Trunkline Gas Company. Northern Border in its application requests certificate authority to install a tee, side valve and blind flange, at each of the points where the proposed extension intersects the jurisdictional pipeline facilities of these five major pipeline companies.

Northern Border has identified other potential beneficiaries of the proposed expansion/extension project. Additional capacity proposed as part of the instant application, Northern Border notes, will permit the introduction on a firm basis of volumes of Williston Basin area production. At the same time, with Panhandle's commitment to move its existing contract entitlement (150 MMcf/day) through the proposed extension facilities, capacity in Panhandle's mainline upstream of Tuscola,—heretofore utilized to effect the transportation and exchange by displacement of deliveries of the 150 MMcf/day off Northern Border's system—will become available for transportation of additional domestic production. In addition, Northern Border notes that additional firm transportation capacity may be utilized for the purpose of transporting incremental volumes of synthetic Natural gas produced from the Great Plains Coal Gasification Plant.

Rate Design

Northern Border states that its application presents to the Commission a case of first impression. Northern Border proposes that its facilities be financed on a "project basis". Northern Border is proposing that the costs of the expansion/extension facilities be rolled-in with the costs of the existing pre-built facilities and recovered under a cost of service rate design. Northern Border states that it will assume the contracting risk associated with its cost of service rate design, including the risk of failure to fully contract design capacity as well as the risk of a firm optional certificate shipper defaulting on payment obligations. Northern Border proposes to maintain its mileage based method of allocating costs to shippers. Northern Border states that it is not proposing any new rate schedules by this application. Northern Border proposes to use 100% of its design capacity for the new service to determine the level of charges to its shippers.

According to Northern Border, the proposed rate structure for the expansion/extension facilities will produce a net cost reduction for existing customers. Northern Border estimates that the transportation cost per Mcf for existing customers would be reduced from 35.7 cents to 33.5 cents, which represents a reduction of approximately 6% or approximately $10.3-million in 1992 to the costs allocated to the existing customers. In this way, Northern Border states that the rate design proposal satisfies the Commission's optional certificate rate requirement which precludes existing customers from bearing any cost

burdens associated with proposed optional certificate facilities. In order to implement its proposal, Northern Border states that at the in-service date of the proposed facilities would be added to the quantities of the existing contracts to form the new allocation base and Northern Border would be at risk to contract for the new capacity.

Capacity Allocation

Northern Border states that it proposes to provide transportation on a nondiscriminatory basis for third party shippers up to the maximum summer day design of the proposed facilities which is designated to be 372.5 MMcf on the existing pipeline and 450 MMcf on the pipeline extension. Northern Border states that it will provide the transportation service for new shippers pursuant to Part 284 of the Commission's Regulations. Northern Border states that transportation service will be provided on a firm basis pursuant to its Rate Schedule T-1 and on an interruptible basis pursuant to its Rate Schedule IT-1.

Northern Border is proposing to allocate new capacity on a first-come, first-served basis subject to priority recognition for three (3) shippers who participated in the original expansion/extension project (Docket No. CP88-77) and reaffirmed their commitment to the reformulated expansion/extension project by execution of unconditional service agreements prior to May 1, 1989. Northern Border states that priority will be determined by request date. Northern Border states that it proposes to allocate remaining uncommitted capacity on its expansion/extension through a preliminary request period which will follow its bulletin board and mass-mailing notice of formal invitations for transportation service requests. Northern Border states that its mailing was made on May 29, 1990 and notice placed on the electronic bulletin board on May 30, 1990. After a no-action period to insure that no potential shipper has been disadvantaged due to receiving the invitation late, Northern Border states that it began accepting complete transportation service requests on June 1, 1990 which are date stamped upon receipt.

Northern Border states that it will begin its allocation process with customers requesting deliveries off the Northern Border extension between Ventura, Iowa and Tuscola, Illinois until the planned capacity on the extension is committed or customer requests run out. After that, Northern Border states that it will then allocate the remaining capacity on the expanded Monchey to Ventura segment. One of the four conditions Northern Border states must be satisfied before a place in the queue is perfected is that the shipper's request must satisfy the minimum term of service which is twelve years beginning the later of November 1, 1991 or the in-service date of the proposed facilities. Northern Border states that economic value will be used as a tie breaker in cases of requests with equal priority.

As part of its proposal, Northern Border is proposing that firm transportation capacity be brokered on a firm basis and for a minimum term of not less that three months. Northern Border has elected not to propose capacity borkering on an interuptible basis because of potential administrative and queueing problems.

Alaskan Gas

Although the proposed project is not dependent upon Alaskan gas, the proposed facilities, Northern Border states, could be used or expanded to accommodate future delivery of natural gas volumes from Alaska. At such time as the ANGTS [4] sponsors are remobilized and construction activities resumed, Northern Border states that it would be positioned to proceed with completion of the conditionally certificated [5] Eastern Leg facilities.

Environmental

Northern Border states that the route of the proposed expansion/extention was chosen following extensive review, filed investigations and consultations with appropriate agencies and based upon a comparative evaluation of terrain, woodlands, wetlands, major river crossings, habitat for endangered plants and wildlife, cultural resources, high population density areas and associated land requirements. Northern Border states that its Erosion, Sedimentation Control, and Restoration Plan provides specific construction and mitigation measures to be followed in connection with pipeline construction. According to Northern Border, roughly 96% of the traversed route is presently disturbed land being utilized principally as farmland. Northern Border states that impacts to traversed acreage will be short term.

Northern Border requests that Commission deliberations concerning the possible necessity of an environmental impact statement be undertaken on an expedited basis. Northern Border fruther requests that environmental issues be phased and considered separately from non-environmental issues.

Comment date: July 19, 1990, in accordance with Standard Paragraph F at the end of this notice.

[4] Alaska Natural Gas Transportation System

[5] See Alcan Pipeline Co., *et al.*, 1 FERC ¶ 61,248 (1977).

9. Panhandle Eastern Pipe Line Company

[Docket No. CP90-1612-000]

Take notice that on June 25, 1990, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-1612-000 a request pursuant to §§ 157.205 and 284.233 of the Commission's Regulations for authorization to transport natural gas on behalf of Panhandle Trading Company (PTC), a marketer of natural gas, and under Panhandle's blanket certificate issued in Docket No. CP86-585-000; and pursuant to § 157.211 of the Commission's Regulations to construct a new delivery point under its blanket certificate authorization in Docket No. CP38-83-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle proposes to transport, on an interruptible basis, up to 200 dt equivalent of natural gas on a peak day, 200 dt equivalent on an average day and 73,000 dt equivalent on an annual basis for PTC. Panhandle states that it would perform the transportation service for PTC under Panhandle's Rate Schedule PT. Panhandle indicates that it would receive the gas at designated points on its system in Colorado, Kansas, Oklahoma, Illinois, Michigan, Ohio, and Texas and would deliver equivalent volumes of gas, less fuel used and unaccounted for line loss, to Taggart Enterprises in Kingfisher County, Oklahoma.

Panhandle also proposes to construct and operate a two-inch valve, check valve and hot tap on its single sixteen-inch transmission line located in Kingfisher County, Oklahoma.

Comment date: August 13, 1990, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of

the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15749 Filed 7-6-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-4-21-000 and TM90-11-21-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

June 29, 1990.

Take notice that Columbia Gas Transmission Corporation (Columbia) on June 29, 1990, tendered for filing the following proposed changes to its FERC Gas Tariff, First Revised Volume No. 1, to be effective August 1, 1990:

First Revised Substitute Second Revised Sheet No. 26
First Revised Substitute Second Revised Sheet No. 26A
First Revised Substitute Second Revised Sheet No. 26B
First Revised Substitute Second Revised Sheet No. 26C
Fifth Revised Sheet No. 163

Columbia states that the sales rate set forth on First Revised Substitute Second Revised Sheet No. 26 reflects an overall increase of 19.29¢ per Dth in the Commodity rate and a decrease of $.619 per Dth in the Demand rate. In addition, the transportation rates set forth on First Revised Substitute Second Revised Sheet No. 26C reflect an increase in the Fuel Component of .53¢ per Dth.

The purpose of the revised tariff sheets is to reflect the following:

(1) A Current Purchased Gas Cost Adjustment Applicable to Sales Rate Schedules;

(2) A continuation of certain surcharges which were accepted by the Commission to be effective through April 30, 1991;

(3) A Transportation Fuel Charge Adjustment; and

(4) A Transportation Cost Recovery Adjustment.

Columbia states that copies of the filing were served upon the Company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15750 Filed 7-6-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-136-000]

Florida Gas Transmission Co., Petition for Limited Waiver

June 29, 1990.

Take notice that on June 28, 1990, Florida Gas Transmission Company ("FGT") filed a petition for limited waiver of §§ 154.302(j) and 157.202(b)(4) of the Commission's Regulations. FGT requests that the Commission grant FGT a limited waiver of §§ 154.302(j) and 157.202(b)(4) of the Commission's Regulations for a one-year period beyond October 15, 1990, the expiration date of the existing waiver granted by letter order dated October 16, 1989.

Such waiver would permit FGT to include in its purchased gas adjustment filings the flow through of costs of liquid gas and liquified natural gas that FGT may purchase to maintain competitively priced service on the FGT system.

FGT states that granting the requested waiver will enable its customers to benefit from the lower weighted average cost of gas and the accompanying benefits of maintaining a high load profile on the FGT system. FGT states that granting the requested waiver is in the public interest.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before July 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15751 Filed 7-6-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-50-000] (Remand)

Florida Gas Transmission Co.; Informal Settlement Conference

June 29, 1990

Take notice that an informal settlement conference will be convened in this proceeding on July 17, 1990, at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC. The settlement conference will convened following the prehearing conference in the same proceeding. The settlement conference will continue on July 18, if necessary.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Donald A. Heydt (202) 208-0248 or John J. Keating (202) 208-0762.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15752 Filed 7-6-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-5-45-000]

Inter-City Minnesota Pipelines Ltd., Inc.; Tariff Filing

June 29, 1990.

Take notice that on June 28, 1990, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada M2J 1R1, tendered for filing a revised tariff sheet to Original Volume 1 of its FERC Gas Tariff to be effective August 1, 1990.

Original Volume No. 1

Fortieth Revised Sheet No. 4

This revised tariff sheet is a regularly scheduled PGA.

Inter-City states that copies of the filing have been mailed to all of its customers and the affected state regulatory commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inpsection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15753 Filed 7-6-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-3-41-000]

Paiute Pipeline Co.; Proposed Change in FERC Gas Tariff

June 29, 1990.

Take notice that on June 29, 1990, Paiute Pipeline Company (Paiute) tendered for filing, pursuant to part 154 of the Commission's regulations, a Quarterly Adjustment in Rates for jurisdictional gas service rendered to sales customers served under rate schedules affected by and subject to the PGA provisions contained in section 9 of the General Terms and Conditions of Paiute's FERC Gas Tariff, Original Volume No. 1.

Paiute tendered Fourteenth Revised Sheet No. 10, which reflects a proposed increase of 14.89 cents per dekatherm in commodity sales rates compared with those in effect on May 1, 1990. No change in the level of demand gas costs is proposed in Paiute's filing.

Paiute states that in accordance with previous Commission orders, Paiute has included in its filing a breakdown of purchases from its suppliers by NGPA category. Paiute states that the projected rates reflected in its filing for purchases from its supplier are not based on NGPA category, but rather upon the total projected supply delivered by such supplier into Paiute's system.

The proposed effective date for the tendered tariff sheet is August 1, 1990.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. 385.211, 385.214). All such motions Or protests should be filed on or before July 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15754 Filed 7-6-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-136-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

June 29, 1990.

Take notice that Transwestern Pipeline Company (Transwestern) on June 28, 1990, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1. the following tariff sheets:

To Be Effective July 1, 1990

77th Revised Sheet No. 5
Original Sheet No. 5D(iii)
1st Revised Sheet No. 5E(i)
42nd Revised Sheet No. 6
9th Revised Sheet No. 37
3rd Revised Sheet No. 87
4th Revised Sheet No. 88
4th Revised Sheet No. 89
4th Revised Sheet No. 90
3rd Revised Sheet No. 90A

The above referenced tariff sheets are the fifth Order No. 500 filing that Transwestern has made to recover a portion of its take-or-pay, buy-out, buy-down and contract reformation costs (Transition Costs). With this filing, Transwestern seeks to recover through the Commission's Order No. 500 "equitable sharing" mechanism take-or-pay, buy-out, buy-down and contract reformation costs for which recovery has not yet been sought by Transwestern in any previous filings. Transwestern has already received Commission's approval to recover—by direct billing and commodity surcharges—approximately $165 million of Order No. 500 Transition Costs, and has "equitably absorbed" over $55 million of such costs. Transwestern has paid an additional $265,000 in Transition Costs and is revising certain tariff sheets and requesting authority to begin recovery of a portion of that amount. Consistent with its earlier Transition Cost Recovery filings, Transwestern seeks to direct bill its customers 25% of the take-or-pay costs, absorb 25% of these costs, and collect the remaining 50% through a volumetric surcharge applicable to all natural gas sold or transported under any of

Transwestern's rate schedules in its FERC Gas Tariff. Transwestern is also revising certain tariff sheets to permit the recovery of future Transition Costs it expects to incur through December 31, 1990, or such later date that is consistent with Commission Order Nos. 500–H and 500–I or such subsequent orders.

Transwestern requests that the Federal Energy Regulatory Commission grant any and all waivers of its rules, regulations and orders as may be necessary, specifically the Commission's May 11 and July 29, 1988 orders in Docket Nos. CP88–99–000, *et al.*, and § 154.63 of its Regulations, so as to permit the above listed rate tariff sheets to become effective July 1, 1990.

Transwestern states that copies of the filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC, 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 10, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–15755 Filed 7–6–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–137–000]

Williston Basin Interstate Pipeline Co., Proposed Changes in FERC Gas Tariff

June 29, 1990.

Take notice that on June 28, 1990, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, tendered for filing the following revised tariff sheets to First Revised Volume No. 1 of its FERC Gas Tariff:

First Revised Volume No. 1

Twenty-fifth Revised Sheet No. 10
Second Revised Sheet No. 116
  Original Sheet No. 116A
Second Revised Sheet No. 117
  Original Sheet No. 117A
Second Revised Sheet No. 118
Second Revised Sheet No. 119
  Original Sheet No. 119A
Second Revised Sheet No. 120
  Original Sheet No. 120A
Second Revised Sheet No. 121
  Original Sheet No. 121A
  Original Sheet No. 121B
Second Revised Sheet No. 122
Second Revised Sheet Nos. 123–124

Williston Basin states that the above-referenced tariff sheets are being filed under § 2.104 of the Commission's Regulations to implement partial recovery of approximately $43.4 million of buyout/buydown costs. Under the proposed filing, Williston Basin is proposing to absorb twenty-five percent of such costs, and to recover twenty-five percent of the costs through a fixed monthly surcharge and fifty percent of such costs through a commodity rate surcharge of 32.808¢ per dkt, all applicable to its Rate Schedules G-1 and SGS–1 sales customers served under First Revised Volume No. 1 of its FERC Gas Tariff.

Williston Basin states that it determined its individual customer fixed monthly surcharge amounts using an allocation based on sales Maximum Daily Quantities (MDQ). Williston Basin requests that the Commission accept certain alternate tariff sheets which it also submitted, and which are based on a Cumulative Purchase Deficiency method, to the extent that the Commission does not allow the MDQ-based allocation methodology to be implemented.

Williston Basin has requested that the Commission accept this filing, to become effective July 1, 1990.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 10, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–15756 Filed 7–6–90; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3806–8]

Availability of Information on Copper-Based Diesel Fuel Additive System for Particulate Trap Regeneration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Lubrizol Business Development Company, has submitted to EPA information regarding a new copper-based diesel fuel additive for use in trap-based diesel particulate control systems which heavy duty engine and light duty vehicle manufacturers might at some future date wish to use on certain engine/vehicle models for sale in the U.S. The relevant information is available for review and comment.

ADDRESSES: Copies of documents relevant to this are available for inspection in public docket (A–90–15) at the Air Docket of the EPA, room M–1500, First Floor, Waterside Mall, 401 M Street SW., Washington, DC 20460, between the hours of 8:30 a.m. and 12 noon, and 1:30 p.m. and 3:30 p.m. on weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services. Any comments or other documents to be submitted to the docket should be submitted in duplicate.

FOR FURTHER INFORMATION CONTACT: Craig A. Harvey, Mechanical Engineer, Technical Support Staff (TSS–11), U.S. Environmental Protection Agency, Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105 (313) 668–4237.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 202(a)(4) of the Clean Air Act, effective with respect to vehicles and engines manufactured after model year 1978, no emission control device, system, or element of design shall be used in a new motor vehicle or new motor vehicle engine for purposes of complying with standards prescribed under this subsection if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function.

The purpose of the Lubrizol additive is to enhance particulate trap regeneration characteristics by allowing continuous regeneration under most conditions and in general reducing the ignition temperature of diesel particulates in the trap. To date, a specific method of introducing the fuel additive into the

fuel has not been set, but it is expected that it would involve either injection of the additive from a separate tank on the vehicle into the diesel fuel as the vehicle is driven, or possibly diesel fuel suppliers would pre-mix the additive into all diesel fuel or into a separate grade of diesel fuel for use in trap equipped vehicles.

Lubrizol has conducted studies on the effects of this system on regulated and various unregulated diesel emissions including emissions of copper.

II. Discussion

This **Federal Register** notice and docket formation are supplemental to the EPA Fuel and Fuel Additive Registration program, which requires manufacturers of gasoline and diesel fuels and additives to have their products registered by EPA prior to sale. Manufacturers are required to provide information on composition, use, known health effects, and other information, as required in 40 CFR part 79. This Lubrizol copper-based additive is receiving this additional opportunity for public comment due to its innovative nature. This same procedure was followed for an iron-based diesel additive from Volkswagen which was announced in the **Federal Register** on November 22, 1989 (54 FR 48311).

From an initial review of the information provided by Lubrizol, it does not appear that any unreasonable risk to health or welfare would exist as a result of commercial use of copper-based diesel fuel additive as proposed by Lubrizol. However, early identification and resolution of any factual issues relating to the use of this system and possible risks would be advantageous; therefore, comments on this system are invited. Comments may be submitted directly to the docket section identified in the address section of this notice.

Dated: July 2, 1990.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 90-15800 Filed 7-6-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL 3806-7]

Report to Congress: Medical Waste Management in the United States; First Interim Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of Report to Congress on Medical Waste Management in the United States—First Interim Report.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is today announcing the availability of the Report to Congress on Medical Waste Management in the United States—First Interim Report. Under RCRA Section 11008, EPA is to report to Congress on twelve information items concerning specific aspects of medical waste management and the demonstration program for tracking medical wastes. This first interim report is a summary of available information; it provides an overview of ongoing Agency activities where research is either being conducted or proposed to supplement the existing information. The report is organized into chapters based on the twelve information items required by Congress.

ADDRESSES: This report is available for viewing at all EPA libraries and in the EPA RCRA docket room, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, from 9:30 a.m. to 3:30 p.m., Monday through Friday, except legal holidays; telephone: (202) 475-9327. The public may copy a maximum of 50 pages of material from any regulatory docket at no cost. Additional copies cost 20 cents per page. The document may be purchased from the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161, at (703) 487-4600: "Report to Congress: Medical Waste Management in the United States—First Interim Report", EPA/530-SW-90-051A, NTIS No: 90-219874.

FOR FURTHER INFORMATION CONTACT: For general information and/or a copy of the Executive Summary (EPA/530-SW-90-051B), call the RCRA Hotline at (800) 424-9346 or (202) 382-3000. For technical information on the report, contact Othalene J. Lawrence, Office of Solid Waste (OS-332), U.S. Environmental Protection Agency, 401 M Street SW., Washington DC 20460, (202) 245-3509.

SUPPLEMENTARY INFORMATION: This report fulfills part of the requirement of RCRA section 11008(b), which requires EPA to report on several aspects of medical waste management and the two year demonstration program for tracking medical waste, which ends July, 1991. It is the first in a series of three reports which address the topics required by RCRA subsection 11008(a)(1) through (12). Chapter 2 addresses section 11008(a)(2), *etc.* To the extent that information items overlap, the chapters explain where the required information is found.

Generally, the information presented in this first interim report reflects EPA's planned information-gathering activities; to the extent that data are available, they are included. Chapters 4 and 9 are noteworthy in that they present EPA's criteria for determining the success of the demonstration program, outline available tracking methods, and assess the appropriateness of Federal hazardous waste requirements and state/local requirements as nationwide medical waste controls.

Dated: June 27, 1990.

Mary A. Gade,

Acting Assistant Administrator for Solid Waste and Emergency.

[FR Doc. 90-15805 Filed 7-6-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL 3805-6]

Clean Water Act; Availability of Final Listing Decisions, Individual Control Strategies, and Response to Comments and Petitions

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of final listing decisions, individual control strategies (ICS's), and responses to comments and petitions under section 304(1) of the Clean Water Act.

SUMMARY: Notice is hereby given of the availability of the United States Environmental Protection Agency's (U.S. EPA) final listing decisions, including approvals and disapprovals of the lists of waters, point sources, pollutants for which the waters and point sources were listed, and individual control strategies (ICS's) submitted by the Commonwealth of Pennsylvania and U.S. EPA's responses to comments and petitions under section 304(1) of the Clean Water Act as amended by the Water Quality Act of 1987. The U.S. EPA Region III Regional Administrator made the above final decisions of June 14, 1990, and is hereby giving the required notice of the availability of these decisions and the administrative record.

DATES: Petitions to add waters and comments on all aspects of the Agency's decisions with regard to the lists of waters, point sources, pollutants and individual control strategies were to be submitted to the U.S. EPA by October 4, 1989. Comments and petitions received after this date were considered as Agency time and resources permitted. The Regional Administrator is to

respond to all comments and petitions on or before June 4, 1990.

ADDRESSES: The U.S. EPA's responses to coments and petitions, and final decisions on approving and disapproving the lists of waters, point sources, pollutants for which the waters and point sources were listed, and ICS's are available for public review. To obtain a copy of these decisions contact:

Mr. Thomas Henry (3WM53), Permits Enforcement Branch, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, PA 19107.

The adiminstrative record containing the U.S. EPA's documentation supporting its final decision is on file and may be inspected at the U.S. EPA Region III office between the hours of 9 a.m. and 4 p.m., Monday through Friday except holidays. To make arrangements to examine the administrative record contact the person named above.

FOR FURTHER INFORMATION CONTACT: Thomas Henry (3WM53), Permits Enforcement Branch, U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA 19107, telephone (215) 597–8243, [FTS] 597–8243.

SUPPLEMENTARY INFORMATION: Section 304(1) of the Clean Water Act (CWA) as amended by the Water Quality Act of 1987 requires every state to develop lists of impaired waters, identify certain point sources and amounts of pollutants causing toxic impacts, and to develop individual control strategies (ICS's) to achieve water quality standards for toxic pollutants, including those pollutants for which the point sources were listed, by no later than June, 1992. Where the state fails to submit ICS's or U.S. EPA disapproves the ICS's, then U.S. EPA in cooperation with the state is to develop ICS's by June, 1990 to achieve water quality standards by no later than June, 1993. ICS's will take the form of National Pollutant Discharge Elimination System (NPDES) permits for the individual point sources.

The deadline for each state to submit this information to the U.S. EPA was February 4, 1989. The U.S. EPA proposed approvals or disapprovals of the states' lists and ICS's on June 2, 1989. The CWA further requires the U.S. EPA to accept petitions to add waters to the lists and take public comment for a 120 day period on the proposed approvals and disapprovals of lists of waters, point sources, pollutants for which the waters and point sources were listed and individual control strategies submitted by the states. The public comment period closed on October 4, 1989. Any comment or petition received after that date and prior to this decision was considered as the Agency's time and resources permitted.

Following the close of the comment period the Regional Administrator considered the comments and petitions and has issued a response to those comments and petitions regarding the Commonwealth of Pennsylvania. These responses are available for public inspection at the above address. The U.S. EPA is required to finalize all decisions on or before June 4, 1990.

This action gives notice of the final decision of the Agency with respect to the listings, including approvals and disapprovals of the Commonwealth of Pennsylvania and the respective lists of waters, point sources, pollutants for which the waters and point sources were listed, and individual control strategies. This decision was based on the consideration of comments and petitions received and on a determination of whether the approval or disapproval of the various lists meets the requirements of 304(1) of the Clean Water Act and 40 CFR parts 122, 123 and 130.

EPA plans to set forth its position on the judicial reviewability of the final listing decisions in a forthcoming **Federal Register** Notice prior to November 6, 1990.

Dated: June 14, 1990.

Edwin B. Erickson,

Regional Administrator, EPA Region III.

[FR Doc. 90–15807 Filed 7–6–90; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

June 29, 1990.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3501–3520).

Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785. Copies of these comments should also be sent to the Commission. For further information contact Jerry Cowden, Federal Communications Commission, (202) 632–7513.

OMB Number: 3060–0325.

Title: Section 80.605, U.S. Coast Guard coordination.

Action: Extension.

Respondents: Individuals, state or local governments, businesses (including small businesses), and non-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 47 responses; 52 hours total annual burden; 1.1 hours average burden per response.

Needs and Uses: This collection is needed to ensure that applications for non-selectable transponders and shore based radionavigations aids are coordinated with the U.S. Coast Guard for a determination that such stations do not pose a hazard to navigation.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–15843 Filed 7–6–90; 8:45 am]

BILLING CODE 6712–01–M

[General Docket 82-243; DA 90-886]

Service and Technical Rules for Government and Non-Government Fixed Service Usage of the Frequency Bands 932–935 MHz and 941–944 MHz

AGENCY: Federal Communications Commission.

ACTION: Notice; stay of filing window.

SUMMARY: This action grants a "Petition for Stay of Filing Window" (Stay Petition) filed by the Utilities Telecommunications Council (UTC) in this proceeding. UTC requested that the filing window scheduled to open July 9, 1990 for the Government/Non-Government Fixed Service be stayed pending Commission action on its concurrent "Petition for Reconsideration or Clarification on Application Filing Procedures" (Reconsideration Petition), which raises concerns regarding applicants filing multiple applications for each site or service area during the open filing window. Because the Office of Engineering and Technology (OET), in consultation with the Private Radio and Common Carrier Bureaus, believes that the concerns raised require the Commission's consideration, the Chief Engineer is granting the requested stay.

DATES: A new filing window will be announced upon resolution of the issue of applicants filing multiple applications.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Telephone (202) 653-8116.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in General Docket No. 82-243, DA 90-886, Adopted June 29, 1990, and Released July 2, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Order

1. In its Stay Petition, UTC contended that the filing window for the Government/Non-Government Fixed Service announced in a Commission Public Notice, 55 FR 23284 (June 7, 1990), failed to limit the filing of multiple applications for each site or service area, as had been the practice in other Commission lottery proceedings. UTC feared that if the Commission failed to address this issue, applicants would file multiple applications merely as a means of improving their odds in the lottery. UTC argued that absent a stay of the filing window, any of its members who chose to file only one application per site or service area would have less chance of success in the lottery than those applicants who chose to file multiple applications. Conversely, UTC asserted, if the Commission decided to disallow multiple applications after the filing window had closed, those parties who filed such applications would have wasted time and money and would have risked dismissal of their applications on abuse of process grounds. DT, Inc. filed comments supporting the Stay Petition.

2. OET finds that UTC has adequately justified a stay of the filing window. We conclude that UTC's Reconsideration Petition will likely succeed on the merits. The Commission did not address an important aspect of the application filing requirements for the new fixed service. As a result of this omission, no prohibition exists on the filing of multiple applications, even thought the Commission has generally prohibited this practice in other services in the past. Further, it appears that this change in practices was not intentional. Therefore, the Commission will likely grant UTC's request for clarification of this issue as set forth in the Reconsideration Petition. Moreover, we concur with UTC that if the filing window is not stayed, the applicants run the risk of harm regardless of which approach to filing applications they choose.

3. Accordingly, it is ordered, that the "Petition for Stay of Filing Window" filed by the Utilities Telecomunications Council is granted. Upon resolution of this issue, we shall issue a new public notice announcing a new filing window for this service.

4. This action is taken pursuant to authority found in sections 4(i), 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 302, and 303, and pursuant to §§ 0.31 and 0.241 of the Commission's Rules.

Federal Communications Commission.

Thomas P. Stanley,

Chief Engineer.

[FR Doc. 90-15799 Filed 7-6-90; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following groups of mutually exclusive applications for five new FM stations:

Applicant, City/State	File No.	MM docket No.
I		
A. Gregory Ray Steckline; Augusta, KS.	BPH-880727MO	90-292
B. Jeannine T. Rainbolt; Augusta, KS.	BPH-88072MV	
C. Curtis R. McClinton, Jr.; Augusta, KS.	BPH-88072NI	
Issue Heading and Applicants 1. Air Hazard, B 2. Financial Qualifications, C 3. Comparative, A, B, C 4. Ultimate, A, B, C		
II		
A. Mary E. Schimmenti; Lake Isabella, CA.	BPH-880818MJ	90-293
B. KVLI Radio, Inc.; Lake Isabella, CA.	BPH-880825OA	
C. Lake Isabella Educational Foundation Inc.; Lake Isabella, CA.	BPH-880825PC	
Issue Heading and Applicant(s) 1. Comparative, A, B, C 2. Ultimate, A, B, C,		
III		
A. Community Entertainment, Inc.; Scranton, SC.	BPH-880803MG	90-294
B. Scranton Communications, Inc.; Scranton, SC.	BPH-880804MM	
C. Kenneth J. Moore; Scranton, SC.	BPH-880804MO	
Issue Heading and Applicants 1. See Appendix, A 2. See Appendix, A 3. See Appendix, A 4. Financial, C 5. Comparative, A, B, C 6. Ultimate, A, B, C		
IV		
A. Beth Knight; Sebastopol, CA.	BPH-880516MA	90-298
B. Wattz Broadcasting; Sebastopol, CA.	BPH-880517MA	
C. Lucinda Felicia Paulos; Sebastopol, CA.	BPH-880518MB	
D. Anne M. Coffey and Dorothea E. Proctor d/b/a Purple Crayon Radio; Sebastopol, CA.	BPH-880518MC	
E. Good Fortune Broadcasting; Sebastopol, CA.	BPH-880518MD	
F. Edward L. Doughty and John J. Spillane d/b/a Special Delivery Broadcasting; Sebastopol, CA.	BPH-880518ME	
G. Bodega Communications, Inc.; Sebastopol, CA.	BPH-880519MD	
H. J.M. Broadcasting, Ltd.; Sebastopol, CA.	BPH-880519MJ	
I. Sonoma County FM. Inc.; Sebastopol, CA.	BPH-880519ML	
J. John A. Carollo, Jr.; Sebastopol, CA.	BPH-880519MX	
K. Ivy Shih-Takahashi d/b/a Bayside Broadcasting, Inc.; Sebastopol, CA.	BPH-880519MY	
L. Sebastopol Broadcasters, Ltd.; Sebastopol, CA.	BPH-880519NE	
M. Dragonfly Communications, Inc.; Sebastopol, CA.	BPH-880519NF	
N. Vintage Broadcasting Corporation; Sebastopol, CA.	BPH-880519NL	
O. Devona R. Porter, General Partner, Gravenstein Broadcasting, A California Limited Partnership; Sebastopol, CA.	BPH-880519NO	
P. Manzanita Media, Inc.; Sebastopol, CA.	BPH-880519NR	

Applicant, City/State	File No.	MM docket No.
Q. Edward E. Abramson; Sebastopol, CA.	BPH-880519NS	
R. Dennis S. Kahane; Sebastopol, CA.	BPH-880519NV	
S. Kathleen Harris; Sebastopol, CA.	BPH-880519OE	
T. Apple Communications; Sebastopol, CA.	BPH-880526MC (Previously Dismissed)	
U. Russian River Vintage Broadcasting; Sebastopol, CA.	BPH-880519NH (Dismissed Herein)	
Issue Heading and Applicants 1. See Appendix, I 2. See Appendix, I 3. See Appendix, I 4. Environmental, D 5. Air Hazard, F, I 6. Comparative, A-S 7. Ultimate, A-S		
V		
A. Morrill Radio Partnership; Essexville, MI.	BPH-880816NA	90-296
B. Dan H. Barden; Essexville, MI.	BPH-880816ND	
C. Richard J. Doud and Mary Helen Doud d/b/a R.D. Communications; Essexville, MI.	BPH-880816OH	
D. Baypointe Broadcasting Corporation; Essexville, MI.	BPH-880816OT	
Issue Heading and Applicants 1. See Appendix, D 2. See Appendix, D 3. See Appendix, D 4. Air Hazard, D 5. Comparative, A-D 6. Ultimate, A-D		

2. Pursuant to section 303(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standarized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC. 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix (Scranton, South Carolina)

Additional Issue Paragraphs

1. To determine whether Sonrise Management Service, Inc. is an undisclosed party to the application of A (Community).

2. To determine whether A's (Community) organizational structure is a sham.

3. To determine, from the evidence adduced pursuant to Issues 1 and 2 above, whether A (Community) possesses the basic qualifications to be a licensee of the facilities sought herein.

Appendix (Sebastopol, California)

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of I (Sonoma).

2. To determine whether I (Sonoma's) organizational structure is a sham.

3. To determine, from the evidence adduced pursuant to Issue 1 and 2 above, whether I (Sonoma) possesses the basic qualifications to be a licensee of the facilities sought herein.

Appendix (Essexville, Michigan)

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of D (Baypointe).

2. To determine whether D's (Baypointe's) organizational structure is a sham.

3. To determine, from the evidence adduced pursuant to Issue 1 and 2 above, whether D (Baypointe) possesses the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 90-15780 Filed 7-6-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200381.

Title: Georgia Ports Authority/ Savannah International Terminal Marine Terminal Agreement.

Parties: Georgia Ports Authority (GPA), Savannah International Terminal (SIT).

Synopsis: The Agreement provides that GPA will grant SIT the exclusive right to use a certain designated area in the Container Yard at Garden City Terminal, Chatham County, Georgia. The premises shall be used only for the storage, handling, maintenance, repair and handling of containers and cargo including trailers and chassis used to transport containers, which are moving in ocean transportation across GPA's dock facilities, and all other activities related thereto. The term of the Agreement is ten years, with option to renew for two additional five year periods.

By Order of the Federal Maritime Commission.

Dated: July 2, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-15766 Filed 7-6-90; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-011075-012.

Title: Central America Discussion Agreement.

Parties:

United States/Central America Liner Association
Nexos Line
Nordana Line, Inc.
Tropical Shipping and Construction Co., Ltd.
Concorde Shipping, Inc.
Central America Shippers, Inc.
Gran Golfo Express

Thompson Shipping Co., Ltd.
Norwegian American Enterprises, Inc.

Synopsis: The proposed amendment would add Naviera Consolidada S.A. as an independent carrier party and delete Gran Golfo Express, a joint service of Transportes Navieros Equatorianos and Naviera Consolidada S.A., as an independent carrier party. The parties have requested a shortened review period.

Agreement No.: 203-011162-006.
Title: Panam Discussion Agreement.
Parties:
United States Panama Freight Association
Lykes Bros. Steamship Co. Inc.
Ecuadorian Line, Inc.
Central America Shippers, Inc.
Nedlloyd Lines
Gran Golfo Express

Synopsis: The proposed amendment would add Transportes Navieros Equatorianos as an independent carrier party and delete Gran Golfo Express, a joint service of Transportes Navieros Equatorianos and Naviera Consolidada S.A., as an independent carrier party. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: July 2, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-15775 Filed 7-6-90; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Availability of a Draft Environmental Impact Statement for the Proposed Construction of a new Courthouse and a new Federal/Municipal Building in New York, NY

The General Services Administration (GSA) has prepared a Draft Environmental Impact Statement (DEIS) for the proposed construction of a United States Courthouse and a Federal/Municipal Building in New York, New York. The US Courthouse will contain approximately 520,000 square feet of occupiable space with about 670 employees. It will be located east of the County Courthouse between Pearl and Worth Streets. Tenants will be Courts and Court related functions. The Federal/Municipal Building will be approximately 640,000 square feet of occupiable space with about 4,216 employees. Major tenants will be Environmental Protection Agency and various city agencies.

The purpose of the project is to provide space and growth and consolidation of the activities now at 26 Federal Plaza, the existing U.S. Courthouse, and numerous leased locations for the City of New York. Major facilities are needed in this area to accommodate the substantial and continual growth that has been occurring to the Courts' function, Federal agencies and the other City activities.

GSA has made a determination that the proposed action requires the preparation of an DEIS. Potential environmental and socio-economic impacts resulting from different project action, the alternative of taking no action and other feasible alternative actions such as utilizing other sites or leasing facilities are included in the DEIS. Information regarding noise quality, vehicle and pedestrian traffic, mass transit, ground water and surface water resources, utilities, cultural and historical, socio-economics, land use and zoning, retail impact, housing, and relationship to other buildings and open areas are presented in the DEIS.

The DEIS is available for review in the GSA Business Service Center, room 112, 26 Federal Plaza, New York, New York, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

A public hearing is scheduled to provide interested parties with an opportunity to identify the significant issues which will arise as a result of the proposed project and alternatives. The details of the proposed hearing are described below:

Date: August 14, 1990.
Time: 5 p.m.
Place: Ceremonial courtroom, U.S. Court of International Trade, 1 Federal Plaza, New York, NY 10278.

Dated: June 2, 1990.

Alan L. Greenberg,

Executive Project Manager, Foley Square Complex Task Force.

[FR Doc. 90-15787 Filed 7-6-90; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

Aid to Families With Dependent Children: State Plan Amendments, Reconsideration; Hearings, Iowa

AGENCY: Department of Health and Human Services, Family Support Administration.

ACTION: Notice of hearing.

SUMMARY: By designation of the Family Support Administration, a member of the Departmental Appeals Board will hold a hearing pursuant to 45 CFR part 213 concerning the Family Support Administration's disapproval of a State plan amendment submitted by the State of Iowa.

DATES: 9 a.m., Thursday, August 16, 1990.

PLACE: Department of Health and Human Services, room 535, 601 East 12th Street, Kansas City, Missouri 64106.

REQUESTS TO PARTICIPATE: Requests to participate as a party or as *amicus curiae* must be submitted to the Departmental Appeals Board in the form specified at 45 CFR 213.15 by July 24, 1990.

FOR FURTHER INFORMATION CONTACT: Judith A. Kidwell, Attorney, Departmental Appeals Board, Department of Health and Human Services, room 637-D, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Telephone Number (202) 475-0343.

SUPPLEMENTARY INFORMATION: Notice of hearing is hereby given as set forth in the following letter, which has been sent to the Iowa Department of Human Services.

Washington, DC, July 2, 1990.

Candy Morgan, Assistant Attorney General, Iowa Department of Human Services, 2nd Floor Hoover State Office Building, Des Moines, Iowa 50319, and,

Ms. Mary Purcell, Assistant Regional Counsel, Region VII, Department of Health and Human Services, room 535, 601 East 12th Street, Kansas City, MO 64106.

Counsel:

This letter is in response to the May 21, 1990 request for reconsideration filed by the Iowa Department of Human Services (State) in which it seeks reconsideration of the Family Support Administration's (FSA) disapproval of the State's proposed state plan amendment submitted as Transmittal No. AP-89-4. In the proposed amendment to the State's plan for implementing title IV-A of the Social Security Act (Aid to Families with Dependent Children, or AFDC) the State is proposing to include the following as special needs when not covered by the Job Opportunities and Basic Skills (JOBS) program, or when JOBS funding has been exhausted:

a. ADC Special Needs Classroom Training as described in the State plan materials at Table 3, Attachment 2.3A, Page 1b and at Attachment 2.3a, Page 7a; and

b. Job Training Partnership Act (JTPA) Child Care Expense as described in the

State plan materials at Table 4, Attachment 2.3a, Page 1b and at Attachment 2.3a, Page 7a.

Pursuant to 45 CFR 213.21, I have designated Judith A. Ballard, a Department Appeals Board Member, to preside at the hearing, which will be conducted under the procedures in 45 CFR part 213. Pursuant to 45 CFR 201.4, a hearing has been scheduled to be held on Thursday, August 16, 1990, in Kansas City, Missouri. The hearing will begin at 9 a.m. and will take place in room 535, 601 East 12th Street. A verbatim transcript will be taken.

The issues to be considered at the hearing include: Whether the proposed State plan amendment provisions (Transmittal No. AP–89–4) comply with the regulatory provisions in 45 CFR 233.20(a)(2)(v)(B)(2); whether the State can provide, as special need items under AFDC, supportive services and/or vocational training, for individuals where JOBS funding is no longer available or where the special need could not be provided under JOBS.

A copy of this letter will appear as a Notice in the **Federal Register** and any person wishing to request recognition as a party will be entitled to file a petition pursuant to 45 CFR 213.15(b) with the Departmental Appeals Board within 15 days after that notice has been published. A copy of the petition should be served on each party of record at that time. The petition must explain how the issues to be considered at the hearing have caused them injury and how their interest is within the zone of interests to be protected by the governing Federal statute. 45 CFR 213.15(b)(1). In addition, the petition must concisely state (i) petitioner's interest in the proceeding, (ii) who will appear for petitioner, (iii) the issues on which petitioner wishes to participate, and (iv) whether petitioner intends to present witnesses. 45 CFR 213.15(b)(2). Any party may, within 5 days of receipt of such petition, file comments thereon; the presiding officer will subsequently issue a ruling on whether and on what basis participation will be permitted.

Any interested person or organization wishing to participate as an *amicus curiae* may also file a petition with the Board, which shall conform to the requirements at 45 CFR 213.15(c)(2). This petition should be filed no later than July 20, 1990, to permit the presiding officer an adequate opportunity to consider and rule upon it.

Any further inquiries, submissions, or correspondence regarding this matter should be filed in an original and two copies with Ms. Ballard at the Departmental Appeals Board, room 637–D, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, where the record in this matter will be kept. Each submission must include a statement that a copy of the material has been sent to the other party, identifying when and to whom the copy was sent. For convenience please refer to Board Docket No. 90–125.

Dated: July 2, 1990.

Jo Anne B. Barnhart,

Assistant Secretary for Family Support.

[FR Doc. 90–15784 Filed 7–6–90; 8:45 am]

BILLING CODE 4150–04–M

Health Care Financing Administration

[OIS–009–N]

Quarterly Listing of Program Issuances

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General Notice.

SUMMARY: This notice lists HCFA manual instructions, regulations and other **Federal Register** notices, and statements of policy that were published during January, February and March 1990 that relate to the Medicare program. Section 1871(c) of the Social Security Act requires that we publish a list of our Medicare issuances in the **Federal Register** every three months.

FOR FURTHER INFORMATION CONTACT:
Allen Savadkin, (301) 966–5265 (For instruction information only).
Matt Plonski, (301) 966–4662 (For all other information).

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Health Care Financing Administration (HCFA) is responsible for administering the Medicare program, a program which pays for health care and related services for 34 million Medicare beneficiaries. Administration of the program involves effective communications with regional offices, State governments, various providers of health care, fiscal intermediaries and carriers who process claims and pay bills, and others. To implement the various statutes on which the program is based, we issue regulations under authority granted the Secretary under sections 1102 and 1871 and related provisions of the Social Security Act (the Act) and also issue various manuals, memoranda, and statements necessary to administer the program efficiently.

Section 1871(c)(1) of the Act requires that we publish in the **Federal Register** no less frequently than every three months a list of all Medicare manual instructions, interpretative rules, statements of policy, and guidelines of general applicability not issued as regulations. We published our first notice June 9, 1988 (53 FR 21731). As in prior notices, although both substantive and interpretive regulations published in the **Federal Register** in accordance with section 1871(a) of the Act are not subject to the publication requirement of section 1871(c), for the sake of completeness of the listing of operational and policy statements we are including regulations (proposed and final) published.

II. Coverage Issues

Beginning with our listing of publications issued during the period July through September 1989 (54 FR 10290), we included the text of changes to the Coverage Issues Manual. In this manner, we implement the policy announced in the **Federal Register** on August 21, 1989 (54 FR 34555) that we will issue quarterly or more often the revisions to that manual. Revisions to the Coverage Issues Manual are not published on a regular basis but on an as needed basis. We publish revisions as a result of technological changes, medical practice changes, or in response to inquiries we receive seeking clarification, or in resolution of a coverage issue under Medicare. Sometimes no Coverage Issues Manual revisions were published during a particular quarter, as during the quarter covered by this listing. Our listing notes that fact. For a complete listing of coverage determinations issued, interested parties should review our publications dated August 21, 1989 (54 FR 34555) and March 20, 1990 (55 FR 10290).

A. How to Use the Listing

This notice is organized so that a reader may review the subjects of all manual issuances, memoranda, regulations, or coverage decisions published during this timeframe to determine whether any are of particular interest. We expect it to be used in concert with previously published notices. Most notably, those unfamiliar with a description of our manuals may wish to review Table I of our first three notices; those desiring information on the Medicare Coverage Issues Manual may wish to review the August 21, 1989 (54 FR 34555) publication; and those seeking information on the location of regional depository libraries may wish to review Table IV of our first notice (53 FR 21736). We have divided this current listing into three tables.

Table I describes where interested individuals can get a description of all previously published HCFA manuals and memoranda.

Table II of this notice lists, for each of our manuals or Program Memoranda, a transmittal number unique to that instruction and a brief statement of its subject matter. The subject matter in a transmittal may consist of a single instruction or many. Often it is necessary to use information in a transmittal in conjunction with information currently in the manuals.

Table III lists all Medicare and Medicaid regulations and general notices published in the **Federal Register** during this period. For each item, we list the date published, the title of the regulation, and the Parts of the Code of Federal Regulations (CFR) which have changes.

B. How to Obtain Listed Material

• Manuals.

An individual or organization interested in routinely receiving any manual and revisions to it may purchase a subscription to that manual. Those wishing to subscribe should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Telephone (202) 783-3238; National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161. Telephone (703) 487-4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS will give complete details on how to obtain the publications they sell.

• Regulations and Notices.

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or may subscribe to the **Federal Register** by contacting the Government Printing Office at the following address: Superintendent of Documents, Government Printing Office, Washington, DC 20402, Telephone (202) 783-3238. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

• Rulings.

Rulings are published on an infrequent basis by HCFA. Interested individuals can obtain copies from the nearest HCFA regional office or review them at the nearest regional depository library. We also sometimes publish Rulings in the **Federal Register**.

C. How to Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the Federal Depository Library Program, government publications are sent to approximately 1400 designated libraries throughout the United States. Interested parties may examine the documents at any one of the FDLs. Some may have arrangements to transfer material to a local library not designated as an FDL. To locate the nearest FDL, individuals should contact any library.

In addition, individuals may contact regional depository libraries, which receive and retain at least one copy of nearly every Federal Government publication, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the closest regional depository library from any library.

Superintendent of Documents numbers for each HCFA publication are shown in Table II, along with the HCFA publication and transmittal numbers. To help FDLs locate the instruction, use the Superintendent of Documents number, plus the HCFA transmittal number. For example, to find the Intermediary Manual Part 3—Claims Process (HCFA Pub. 13-3) transmittal containing "Medicare Catastrophic Coverage Repeal Act of 1989" use the Superintendent of Documents number HE 22.8/6 and the HCFA transmittal number IM-90-1.

D. General Information

It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons. Individuals are expected to procure copies or arrange to review them as noted above.

Questions concerning items in Tables I or II may be addressed to Allen Savadkin, Office of Issuances, Health Care Financing Administration, room 688 East High Rise, 6325 Security Blvd., Baltimore, MD 21207; Telephone (301) 966-5265.

Questions concerning all other information may be addressed to Matt Plonski, Regulations Staff, Health Care Financing Administration, room 132 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (301) 966-4662.

Table I—Description of Manuals, Memoranda and HCFA Rulings

An extensive descriptive listing of manuals and memoranda was previously published at 53 FR 21731 and supplemented at 53 FR 36892 and 53 FR 50579. Also, for a complete descriptive listing of the Medicare Coverage Issues Manual please review 54 FR 34555.

TABLE II.—MEDICARE MANUAL INSTRUCTIONS, JANUARY-MARCH 1990

Trans. No.	Manual/Subject/Publication Number
	Intermediary Manual
	Part 2—Audits, Reimbursement, Program Administration (HCFA-Pub. 13-2)
	(Superintendent of Documents No. HE 22.8/6-2)
373	● Quarterly Periodic Interim Payment Report, Form HCFA-3058
374	● Maximum Payment Per Visit for Independent Rural Health Clinics
	Intermediary Manual
	Part 3—Claims Process (HCFA-Pub. 13-3)
	(Superintendent of Documents No. HE 22.8/6)
IM-90-1	● Medicare Catastrophic Coverage Repeal Act of 1989
1455	● Specific Guidelines Sample Review—Phase II Guidelines for Review of Claims for Epoetin, ESRD Report of MR Activity
1456	● Review of Form HCFA-1450 for Inpatient and Outpatient Bills Billing for Durable Medical Equipment and Orthotic/Prosthetic Devices
1457	● Inpatient Hospital Stays for Rehabilitation Care
1458	● Repaginates, Reformats, and Edits the Chapter on Special Provisions Related to Payment
1459	● Dialysis for ESRD—General Special Consideration When Processing ESRD Bills Under Method II
1460	● Heart Transplants
1461	● Billing for Durable Medical Equipment and Orthotic/Prosthetic Devices DME Prosthetic and Orthotics HCPCS Codes and Definitions
1462	● Review of Form HCFA-1450 for Inpatient and Outpatient Bills
	Carriers Manual
	Part 2—Program Administration (HCFA-Pub. 14-2)
	(Superintendent of Documents No. HE 22.8/7-3)
111	● Claims Processing Timeliness
	Carriers Manual
	Part 3—Claims Process (HCFA-Pub. 14-3)
	(Superintendent of Documents No. HE 22.8/7)
1332	● Claims for Payment of Epoetin Alfa
1333	● Laboratory Services by Physicians Hospital Laboratory Services Furnished to Nonhospital Patients
1334	● Electronic Media Claims Review of the Health Insurance Claim Form Physician or Supplier Information Diagnosis or Nature of Illness or Injury Review of Bill Completion Explanatory and Denial Messages
1335	● Durable Medical Equipment

TABLE II.—MEDICARE MANUAL INSTRUCTIONS, JANUARY–MARCH 1990—Continued

Trans. No.	Manual/Subject/Publication Number
	Additional Percentile Fields
	Fee and Nonfee Schedule Data
	Special Rule for Nuclear Medicine Physician Payment
	Edit Modules
	Funding
1336	● ESRD Bill Processing Procedures
	Model Letter to Suppliers Describing the Changes
1337	● Prepayment Review Personnel and Procedures
1338	● Furnishing Fee Schedule, Prevailing Charge and Conversion Factor Data to Intermediaries
	File Specifications
1339	● Incentive Payments to Physicians for Services Rendered in a Health Manpower Shortage Area
1340	● Coding of Physician Visits to Nursing Home Patients
1341	● Limits on Actual and Prevailing Charges for Overpriced Procedures
	Determination of CRNA Fee Schedule Payment
	Update of CRNA Conversion Factors
	Determination of Time Units
	Calculation of Reasonable Charge
	Application of Maximum Allowable Actual Charge
	Continuation of Reasonable Cost Reimbursement for Qualified Anesthetists' Services
	Program Memorandum Intermediaries (HCFA-Pub. 60A) (Superintendent of Documents No. HE 22.8/6-5)
A-89-17	● List of Excluded Technical or Professional Codes With the Corresponding Global Codes for Other Diagnostic Services
A-90-1	● Change in Hospice Payment Rates
A-90-2	● Notice of New Interest Rate Applicable on Clean Claims
A-90-3	● Adult Dialysis Patients Receiving Hepatitis B Vaccine—Engerix-B
A-90-4	● FY 90 Sequestration
A-90-5	● Medical Review of SNF Claims During Transition
A-90-6	● Reasonable Cost Election for CRNA Services
	Program Memorandum Carriers (HCFA-Pub. 60B) (Superintendent of Documents No. HE 22.8/6-5)
B-90-1	● 1990 Fee Screen Updates and Payment Changes
B-90-2	● 1990 Dear Doctor/Supplier Letters and Fact Sheets
B-90-3	● Restriction on Payment to Referring Laboratories
	Program Memorandum Intermediaries/Carriers (HCFA-Pub. 60A/B) (Superintendent of Documents No. HE 22.8/6-5)
AB-90-1	● Medicare Administrative Appeals
AB-90-2	● Processing Medicare Secondary Payer Payment and Savings Calculations Using Revised MSPPAY Software Implementing Regulation BPD-302F

TABLE II.—MEDICARE MANUAL INSTRUCTIONS, JANUARY–MARCH 1990—Continued

Trans. No.	Manual/Subject/Publication Number
	Regional Office Manual Part 2—Medicare (HCFA-Pub. 23-2) (Superintendent of Documents No. HE 22.8/8)
308	● Uniform Contractor Evaluation Program for FY 1990
	Regional Office Manual Part 4—Standards and Certification (HCFA-Pub. 23-4) (Superintendent of Documents No. HE 22.8/8-3)
45	● Requesting Additional State Agency Development
	Budget Call
	Review of the Certification Data
	Hospital Manual (HCFA-Pub. 10) (Superintendent of Documents No. HE 22.82/2)
580	● Durable Medical Equipment and Orthotic/Prosthetic Devices
	Completion of Form HCFA-1450 for Inpatient and/or Outpatient Billing
581	● Claims Processing Timeliness
	Medical Review of Part B Intermediary Outpatient Speech-Language Pathology Services
582	● Inpatient Hospital Stays for Rehabilitation Care
583	● Special Instructions on Completion of the HCFA-1450 by Hospital Based Renal Dialysis Facilities Billed Under Direct Dealing (Method II)
584	● Heart Transplants
	Peer Review Organization Manual (HCFA-Pub. 19) (Superintendent of Documents No. HE 22.8/15)
24	● Hospital Issuance of Message to Beneficiaries
	Monitoring Procedures
	An Important Message from Medicare (PPS Hospitals—English and Spanish Version)
	Home Health Agency Manual (HCFA-Pub. 11) (Superintendent of Documents No. HE 22.8/5)
230	● Billing for Durable Medical Equipment and Orthotic/Prosthetic Devices
	Completion of Form HCFA-1450 for Home Health Agency Billing
231	● Billing for Durable Medical Equipment and Orthotic/Prothetic Devices
	Skilled Nursing Facility Manual (HCFA-Pub. 12) (Superintendent of Documents No. HE 22.8/3)
IM-89-2	● Description of Part A SNF Coverage Provisions Under Catastrophic Insurance Repeal
288	● Billing for Durable Medical Equipment and Orthotic/Prosthetic Devices
	Completion of Form HCFA-1450 for Inpatient and/or Outpatient Billing
	Rural Health Clinic Manual (HCFA-Pub. 27) (Superintendent of Documents No. 22.8/19:985)
38	● Maximum Payment Per Visit for Independent Rural Health Clinics
	Renal Dialysis Facility Manual (Non-Hospital Operated) (HCFA-Pub. 29) (Superintendent of Documents No. HE 22.8/13)

TABLE II.—MEDICARE MANUAL INSTRUCTIONS, JANUARY–MARCH 1990—Continued

Trans. No.	Manual/Subject/Publication Number
44	● Completion of Form HCFA-1450 by Independent Facilities for Support Services for Method II Beneficiaries
	Hospice Manual (HCFA-Pub. 21) (Superintendent of Documents No. 22.8/18)
26	● Claims Processing Timeliness
27	● Eligibility Requirements
	SNF and ICF Residents and Dually Eligible Beneficiaries
	Election of Hospice Care
	HMO Enrollees
	Election, Revocation and Change of Hospice
	Covered Services
	Core Services
	Special Coverage Provisions
	Completing the Uniform Bill
	Routine Home Care
	Limitation on Payments for Inpatient Care
	Payment for Physician Services
	Cap on Overall Reimbursement
	Outpatient Physical Therapy and Comprehensive Outpatient Rehabilitation Facility Manual (HCFA-Pub. 9) (Superintendent of Documents No. HE 22.8/9)
93	● Billing for Durable Medical Equipment and Orthotic/Prosthetic Devices
	Completion of Form HCFA-1450 for Billing CORF, Outpatient Physical Therapy, Occupational Therapy, or Speech Pathology Services
	Provider Reimbursement Manual Part I—(HCFA-Pub. 15-1) (Superintendent of Documents No. HE 22.8/4)
355	● Costs of Unsuccessful Beneficiary Appeals
356	Special Treatment of Sole Community Hospitals Under the Prospective Payment System
	Provider Reimbursement Manual Part I—Chapter 27 Reimbursement for ESRD and Transplant Services (HCFA-Pub. 15-1-27) (Superintendent of Documents No. HE 22.8/4)
13	● Reimbursement for Home Dialysis Beneficiaries Who Choose to Deal Directly With the Medicare Program
	Provider Reimbursement Manual Part II—Provider Cost Reporting Forms and Instructions (Hospital) (HCFA-Pub. 15-IIS) (Superintendent of Documents No. HE 22.8/4)
11	● Cost Reporting Form HCFA-2552-85
	Payment for Orthotics and Prosthetics
	Pneumococcal Vaccine

TABLE III.— REGULATIONS AND NOTICES PUBLISHED JANUARY–MARCH, 1990

Publication date/Cite	42 CFR Part	Title
Final Rules:		
01/04/90 (55 FR 290)	412, 413	Medicare Program; Changes in Payment Policy for Direct Graduate Medical Education (Corrects a final rule published 09/29/89) (54 FR 40286).
01/19/90 (55 FR 1819)	411, 412, 489	Medicare as Secondary Payer and Medicare Recovery Against Third Parties (Corrects a final rule published 10/11/89) (54 FR 41716).
01/26/90 (55 FR 2652)	100, 405, 413, 447	Removal of Obsolete Regulations on Limitation on Federal Participation for Capital Expenditures Under Section 1122 of the Social Security Act.
03/14/90 (55 FR 9574)	74, 405, 408, 416, 440, 483, 488, 493.	Medicare, Medicaid, and CLIA Programs; Revision of the Laboratory Regulations for the Medicare, Medicaid and Clinical Laboratories Improvement Act of 1967 Programs.
03/26/90 (55 FR 11019).	405	Medicare Program; Medicare as Secondary Payer and Medicare Recovery Against Third Parties.
Proposed Rules:		
03/08/90 (55 FR 8491)	411	Medicare Program; Medicare Secondary Payer for Disabled Active Individuals.
03/15/90 (55 FR 9740)	400, 405, 410, 413, 417, 424, 466, 473, 485, 489, 494.	Medicare Program; Catastrophic Outpatient Drug Benefit, Home Intravenous Drug Therapy Benefit, and Screening Mammography Services—Withdrawal. (This notice withdraws the following proposed regulations from further considerations)—Medicare Program; Coverage of Screening Mammography, (9/01/89) (54 FR 36736); Catastrophic Outpatient Drug Benefit, (9/07/89) (54 FR 37190); Payment for Covered Outpatient Drugs, (9/07/89) (54 FR 37208); Conditions of Participation for Home Intravenous Drug Therapy Providers, (9/07/89) (54 FR 37220); Outpatient Prescription Drugs; List of Covered Home IV Drugs, (9/07/89) (54 FR 37239); Coverage of Home Intravenous Drug Therapy Services, (9/08/89) (54 FR 37422); Payment for Home Intravenous Drug Therapy Services (11/08/89) (54 FR 46937)).
03/19/90 (55 FR 10077).	440, 447	Medicare Program; Payment Adjustments for Hospitals That Serve a Disproportionate Number of Low Income Patients.
03/20/90 (55 FR 10256).	483	Medicare and Medicaid Programs; Charges to Resident's Funds in Nursing Homes.
03/23/90 (55 FR 10938).	431, 433, 483	Medicare and Medicaid Programs; Nurse Aide Training and Competency Evaluation Programs.
03/23/90 (55 FR 10951).	405, 431, 483	Medicare and Medicaid Programs; Preadmission Screening and Annual Resident Review.

Publication date/Cite	Title
Notices:	
01/17/90 (55 FR 1619)	Medicare Program; Carrier Bonuses for Increasing Physicians Participation or Payments.
01/26/90 (55 FR 2704)	Medicare and Medicaid Programs; Meeting of the Advisory Council on Social Security.
02/01/90 (55 FR 3487)	Medicare Program; Establishment of Medicare Economic Index Effective April 1, 1990.
02/08/90 (55 FR 4526)	Medicare Program; Revisions of Ambulatory Surgical Center Payment Rate Methodology.
02/08/90 (55 FR 4577)	Medicare Program; Update of Ambulatory Surgical Center Payment Rates.
03/08/90 (55 FR 8545)	Medicare Program; Criteria for Medicare Coverage of Adult Liver Transplants.
03/15/90 (54 FR 9774)	Medicare Program; Outpatient Prescription Drugs: List of Covered IV Drugs Withdrawal (This notice withdraws a proposed notice from further consideration—Outpatient Prescription Drugs: List of Covered Home IV Drugs (9/07/89) (54 FR 37239)).
03/19/90 (55 FR 10116)	Medicare Program; Changes to Maintenance of Effort Requirements (Section 421 of the Medicare Catastrophic Coverage Act).
03/20/90 (55 FR 10290)	Quarterly Listing of Program Issuances and Coverage Determinations.
03/29/90 (55 FR 11657)	Medicare and Medicaid Programs: ICD–9–M Coordinating and Maintenance Committee Meeting.

(Catalog of Federal Domestic Assistance Program No. 13.773, Hospital Insurance; and Program No. 13.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 23, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 90–15730 Filed 7–6–90; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–90–3116]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act [44 U.S.C. chapter 35].

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an

estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 28, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: CDBG Funded Agency Employment Data

Office: Fair Housing and Equal Opportunity

Description of the Need for the Information and Its Proposed Use: The Department is required by Section 104(d) of the Housing and Community Development Act of 1974, as amended, to carry out an annual review to determine whether entitlement and HUD administered program grantees have carried out activities in accordance with their certifications and the requirements of Title I and other applicable laws.

Form Number: HUD/EEO 4

Respondents: State or Local Governments and Federal Agencies or Employees

Frequency of Submission: Annually

Reporting Burden:

	Number of Respondents	×	Frequency of Response	×	Hours per Response	=	Burden hours
EEO-4	1,120		1		1.25		1,400

Total Estimated Burden Hours: 1,400

Status: Reinstatement

Contact: Leon M. Garrett, HUD, (202) 708-2740; Scott Jacobs, OMB, (202) 395-6880

Dated: June 28, 1990.

Proposal: Hospital—Section 242 Contractor's Requisition.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: Construction disbursements for the section 242 Mortgage Insurance Program for Hospitals are made by the mortgagee only with the Department's approval. This form authorizes the mortgagee to make progress payments in order for the contractor to meet his obligation.

Form Number: FHA-2448.

Respondents: Businesses or Other For-Profit.

Frequency of Submission: Monthly.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
FHA-2448	39		12		1		468

Total Estimated Burden Hours: 468.

Status: Extension.

Contact: Richard S. Fitzgerald, HUD, (202) 708-0283; Scott Jacobs, OMB, (202) 395-6880.

Date: June 28, 1990.

Proposal: Section 8 Existing Housing Allowances for Tenant Furnished Utilities and Other Services.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: Form HUD-52667 will assist families searching for housing in determining gross vs. fair market rent comparisons and provide the public housing agencies with a record of approved allowances for tenant-paid utilities and services.

Form Number: HUD-52667.

Respondents: State Or Local Governments.

Frequency of Submission: On Occasion and Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-52667							
PHA	2,000		1		3		6,000
Tenants	91,600		1		.25		22,900

Total Estimated Burden Hours: 28,900.

Status: Revision.

Contact: Michael Dennis, HUD, (202) 708-3887; Scott Jacobs, OMB, (202) 395-6880.

Date: June 28, 1990.

Proposal: Minimum Property Standards—Request for Local Review.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: 24 CFR Part 200.925a(c) allows parties with an interest in a proposed property to comply with model codes, or state or local codes that have been submitted to the Department by such parties and are deemed equivalent. In such cases, HUD assisted properties need only to comply with such equivalent codes.

Form Number: None.

Respondents: Businesses or Other For-Profit and Small Businesses or Organizations.

Frequency of Submission: Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Annual Review	1,350		1		8		10,800
Recordkeeping	1,350		1		1		1,350

Total Estimated Burden Hours: 12,150.

Status: Extension.

Contact: Henry Omson, HUD, (202) 708–0798; Scott Jacobs, OMB, (202) 395–6880.

Date: June 28, 1990.

[FR Doc. 90–15745 Filed 7–6–90; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Alaska Land Use Council; Meeting

AGENCY: Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: As required by the Alaska National Interest Lands Conservation Act (ANILCA), Public Law 96–487, dated December 2, 1980, section 1201, Paragraph (h), the Alaska Land Use Council will meet at 9 a.m., Thursday, July 26, 1990, at the Clarion Hotel, 4800 Spenard Road, Anchorage, Alaska.

The Land Use Council meeting will have a single agenda item: the Alaska Forum 2000 Symposium with six speakers addressing the members of the Council. The theme of the symposium is titled "A Shared Vision for Alaska." A document reporting the proceedings of the symposium will be produced during the fall of 1990.

Any individual desiring more information or wishing to appear before the Land Use Council should contact the Office of the Federal Cochairman prior to the meeting.

The public is invited to attend and participate. There is no charge for attending the meeting.

FOR FURTHER INFORMATION CONTACT: Alaska Land Use Council, Office of the Federal Cochairman, 1689 C Street, suite 100, Anchorage, Alaska 99501, (907) 272–3422, (FTS) 868–5485.

Dated: June 26, 1990.

John E. Schrote,

Deputy Assistant Secretary, Policy, Management and Budget.

[FR Doc. 90–15727 Filed 7–6–90; 8:45 am]

BILLING CODE 4310–RK–M

Bureau of Land Management

[Alaska AA–48216–U]

Notice of Proposed Reinstatement of a Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease AA–48216–U has been received covering the following lands:

Fairbanks Meridian, Alaska

T. 22 S., R. 8 E.,
Sec. 32. NW¼NW¼.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from February 1, 1990, the date of termination have been paid.

Having met all the requirements for reinstatement of lease AA–48216–U as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective February 1, 1990, subject to the terms and conditions cited above.

Dated: June 25, 1990.

Ruth Stockie,

Chief, Branch of Mineral Adjudication.

[FR Doc. 90–15728 Filed 7–6–90; 8:45 am]

BILLING CODE 4310–JA–M

[CA–060–00–4212–11; CACA 26379]

Realty Action, Classification of Public Lands for Recreation and Public Purposes, Serial Number CACA 26379, San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, lease/conveyance of lands for recreation and public purposes.

SUMMARY: The following public land in San Bernardino County, California has been examined and found suitable for classification for lease or conveyance to the Barstow Heights Community Services District under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The Barstow Heights Community Services District proposes to use the land for establishment of a new neighborhood park.

San Bernardino Meridian, California

T. 9 N., R. 2 W.
Sec. 14: NE¼NW¼NW¼SE¼;
Containing 2.50 acres, more or less.

The Barstow Community Services District, a local government entity under the Community Services District Law, County of San Bernardino, State of California has filed an application to lease with the option for conveyance of the above described public land. The land will be leased during the development stage. Upon substantial compliance with an approved plans of development and management, the land will be conveyed.

The lands are not needed for Federal purposes. Lease or conveyance is consistent with the California Desert Conservation Area Plan, as amended, and would be in the public interest. The tract is situated near a significant population center and convenient access is provided by paved County roads. The site is physically suitable for the proposed use.

The terms and conditions applicable to a lease or conveyance are:

A. Reservations to the United States

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

2. The United States will reserve all mineral deposits in the land together with the right to prospect, mine and remove such mineral deposits under applicable law.

B. The Public Lands Will be Leased or Conveyed Subject to the Following

1. A right-of-way not to exceed 33 feet in width, for roadway and public utilities purposes, to be located along the north, east, and south boundaries of said land.

Upon publication of this notice in the Federal Register, the public lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act

and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed lease/conveyance classification of the lands to the Area Manager, Barstow Resource Area, 150 Coolwater Lane, Barstow, California 92311, (619) 256-3591. Any adverse comments will be reviewed by the District Manager, California Desert District. In the absence of any adverse comments, this classification will become effective 60 days from the date of publication of this notice.

Dated: June 27, 1990.

Karla K.H. Swanson,

Acting Area Manager.

[FR Doc. 90-15729 Filed 7-6-90; 8:45 am]

BILLING CODE 4310-40-M

[CO-930-00-4332-09]

Public Review Period for USBS/USBM "Mineral Survey Reports" Prepared for BLM Wilderness Study Areas, Colorado

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice.

SUMMARY: The Colorado Bureau of Land Management (BLM) is requesting public review of combined U.S. Geological Survey (USGS) and U.S. Bureau of Mines (USBM) "Mineral Survey Reports" for the following Wilderness Study Areas (WSA). The following is a list of available Mineral Survey Reports by WSA on which new information will be accepted.

WSA No.	Name	Report No.
CO-010-001	Bull Canyon	B-1714-A.
CO-010-002	Willow Creek	In press.
CO-010-003	Skull Creek	In press.
CO-010-104	Platte River Adjacent.	OF-89-154.
CO-010-214	Diamond Breaks	B-1714-B.
CO-010-230	Cross Mountain	B-1759-A.
CO-030-089	Powderhorn ISA	MF-1483-A.
CO-030-208	Redcloud Peak	B-1715-B.
CO-030-217	American Flats	B-1715-A.
CO-0030-241	Handies Peak	B-1715-B.
CO-030-290	Dolores River Canyon.	B-1715-C.
CO-030-300	Tabeguache Creek	B-1715-E.
CO-030-310A	Sewemup Mesa	B-1736-B.
CO-030-363	Dominguze Canyon	B-1736-A.
CO-030-388	Gunnison Gorge	B-1715-D.
CO-050-002	Browns Canyon	B-1716-C.
CO-050-016	Beaver Creek	B-1716-B.
CO-050-131	Black Canyon	B-1716-A.
CO-050-132B	South Piney Creek	B-1716-A.
CO-050-137	Papa Keal	B-1716-D.
CO-050-139B	Zapata Creek	B-1716-C.
CO-070-113	Black Ridge Canyons.	B-1736-C.
CO-0070-113A	Black Ridge Canyons West.	B-1736-C.
CO-0070-392	Eagle Mountain	B-1717-B.
CO-070-425	Hack Lake	B-1717-A.
CO-070-430	Bull Gulch	B-1717-C.

If the public provides a new interpretation of the data presented in the mineral reports or submits new mineral data for consideration, BLM will send these comments to USGS/USBM. Significantly new findings, if any, will be documented in the BLM "Wilderness Study Report" which will be reviewed by the Secretary, the President, and by Congress before final decisions on wilderness designation are made. Copies of the mineral survey reports are available for review in BLM offices in Lakewood, Craig, Grand Junction, Montrose, and Canon City. These copies are not available for sale or removal from BLM offices. Copies, however, may be purchased from the following address: Books and Open-File Report Section, U.S. Geological Survey, Federal Center, Box 25425, Denver, CO 80225, (303) 236-7476. Payment by check or money order must accompany all orders.

DATES: The public review of the mineral survey reports named in this notice shall conclude on September 15, 1990.

ADDRESSES: Send comments and information to: State Director (920), BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Kermit Witherbee, Division of Mineral Resources at (303) 236-1787, or Eric Finstick, Division of Lands and Renewable Resources at (303) 236-1756, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

SUPPLEMENTARY INFORMATION: Section 603 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2785, directed the Secretary of the Interior to inventory lands having wilderness characteristics as described in the Wilderness Act of September 3, 1964, and from time to time report to the President his recommendations as to the suitability or non-suitability of each area for preservation as wilderness. The USGS and USBM are charged with conducting mineral surveys for areas that have been preliminarily recommended suitable by BLM for inclusion into the wilderness system to determine the mineral values, if any, that may be present in such areas. There are about 777,479 million acres of Wilderness Study Areas identified by BLM in Colorado, of which about 454,780 million acres have been preliminarily recommended as suitable.

The BLM Colorado State Director is providing this public review and comment period in order to ensure that all available minerals data are considered by Congress prior to making its final wilderness suitability decisions. BLM will review the public comments and will forward to USGS/USBM any significant new minerals data or new interpretations of the minerals data submitted by the public. The information requested from the public via this invitation is not limited to any specific energy or mineral resource. Comments should be provided in writing and should be as specific as possible and include:

1. The name and number of the subject Wilderness Study Area and USGS/USBM Mineral Survey report.
2. Mineral(s) of interest.
3. A map or land description by legal subdivision of the public land survey grid or protracted surveys showing the specific parcel(s) of concern within the subject Wilderness Study Area.
4. Information and documents that depict the new data or reinterpretation of data.
5. The name, address, and telephone number of the person who may be contacted by technical personnel of the BLM, USGS, or USBM assigned to review the information.

Geologic maps, cross sections, drill hole records, sample analyses, etc., should be included. Published literature and reports may be cited. Each comment should be limited to a specific Wilderness Study Area. All information submitted and marked confidential will be treated as proprietary data and will not be released to the public without consent.

Dated: June 30, 1990.

Tom Walker,

Associate State Director.

[FR Doc. 90-15792 Filed 7-6-90; 8:45 am]

BILLING CODE 4310-JB-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 88-104]

Dean A. Steinberg, M.D.; Revocation of Registration

On October 24, 1988, the Administrator of the Drug Enforcement Administration (DEA), issued an Order to Show Cause and Immediate Suspension of Registration to Dean A. Steinberg, M.D. (Respondent) of 37

Liberty Place, Doylestown, Pennsylvania 18901, proposing to revoke DEA Certificate of Registration AS2190471, and to deny any pending applications for renewal of his registration as a practitioner under 21 U.S.C. 823(f). The basis for the issuance of the Order to Show Cause was that Respondent's continued registration was inconsistent with the public interest. The Order also immediately suspended Respondent's registration on the ground that his continued registration posed an imminent danger to the public health and safety.

Respondent, through counsel, requested a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held in Washington, DC on June 20, 1989. On January 23, 1990, Judge Bittner entered her opinion and recommended ruling, findings of fact, conclusions of law and decision, recommending that the Administrator revoke Respondent's registration and that any pending applications for renewal of that registration be denied. On February 10, 1990, Respondent filed exceptions to the administrative law judge's opinion.

On February 28, 1990, Judge Bittner transmitted the record of these proceedings, including the Respondent's exceptions, to the Administrator. The Acting Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter.

The administrative law judge found that Respondent is an anesthesiologist who graduated from medical school in 1982, took a surgical internship, and completed an anesthesia residency in 1985. He was Board-certified in 1987. Upon completion of his residency, Respondent became employed by the Professional Anesthesiology Associates, one of the providers of anesthesia services at a hospital located in Doylestown, Pennsylvania.

In May 1988, the Philadelphia Office of the Drug Enforcement Administration received information that Respondent had been ordering excessive quantities of Percocet, a highly abused Schedule II controlled substance. As a result, DEA Investigators conducted an investigation which revealed that in 1987 and 1988, Respondent was ranked as the highest practitioner purchaser of oxycodone products in the Commonwealth of Pennsylvania. In 1987, he ordered approximately 12,600 dosage units of Percocet. For the period between January 1, 1988 and October 12, 1988, Respondent ordered a total of 47,500 dosage units of oxycodone products, which consisted of 38,500 dosage units of generic Percocet (oxycodone with acetaminophen), 1,000 dosage units of generic Percodan (oxycodone with aspirin) and 8,000 dosage units of straight oxycodone 5 mg.

On October 12, 1988, DEA Investigators served an administrative inspection warrant at Respondent's residence which was his DEA registered location. Although Respondent was not present when the warrant was served, he was contacted by telephone. Respondent told the Investigator that he had no drugs, no records, and no patients, and that he and his wife had been abusing the controlled substances that he had ordered.

During the course of the investigation, the Investigators conducted a prescription survey of fifteen pharmacies located in the Doylestown area. The survey revealed that Respondent had issued prescriptions for Percocet in 1986, 1987 and 1988. In 1986, Respondent issued 18 prescriptions for Percocet, totalling 685 dosage units. The prescriptions were issued in his wife's name, Lauren Steinberg. In 1987, Respondent issued 39 prescriptions for Percocet, totalling 1,950 dosage units. Most of these prescriptions were issued in either his wife's name, or in her maiden name, Lauren Kraiman. However, some were issued in fictitious names or in the names of real persons who did not receive the drugs. The survey further revealed that for the period from January through September 1988, Respondent issued 17 prescriptions for Percocet, totalling 790 dosage units. Most of these prescriptions were issued in his wife's name. At the DEA administrative hearing, Respondent conceded that he wrote the prescriptions, that none of them were issued for legitimate medical purposes and that some were issued in the names of fictitious persons and of acquaintances, family members and friends who never received the drugs.

On October 27, 1988, the Investigators interviewed the chief executive officer of the hospital, as well as the vice president of the hospital's medical group. They described Respondent as an exemplary employee who did excellent work, and that assessment was corroborated by the Director of the Anesthesiology Department and by the President of the Professional Anesthesiology Associates. All of these officials and physicians stated that Respondent showed no signs of being impaired.

On October 14, 1988, the Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs, suspended Respondent's license to practice medicine. On March 31, 1989, Respondent entered into a Stipulation with the Bureau of Professional and Occupational Affairs. In that Stipulation, Respondent agreed to the issuance of an order suspending his medical license for three years, with the suspension stayed in favor of probation provided that Respondent comply with various restrictions. That stipulation was adopted by the State Board of Medicine in an order dated April 19, 1989. On July 27, 1989, the order was amended to provide that throughout the period of probation, Respondent would be prohibited from engaging in any private practice of anesthesiology or medicine outside the scope of his practice at a hospital or other health care facility where he may be employed.

At the DEA administrative hearing, Respondent testified that he had used marijuana, hashish, and beer by the time he finished high school, and that he was a "recreational" user of marijuana, amphetamines and Quaaludes in college. Respondent further testified that during medical school and his residency, he sometimes used cocaine and, on various occasions, he tried other drugs such as Biphetamine and Tuinal. Respondent began using Percocet regularly in 1986 and, by February 1987, he was taking the drug daily. Respondent stated that in January 1988, he had been taking about 70 Percocet tablets per day. By August 1988, his usage peaked to approximately 30 Percocet tablets at one time, several times a day. He had gone into withdrawal every day, vomited frequently, and suffered other adverse side effects. Concerning his wife's drug abuse, Respondent testified that she had been consuming approximately 80 to 100 tablets per day.

Respondent was admitted to a chemical dependency treatment program on October 14, 1988 and was discharged on November 25, 1988. He joined an aftercare program which included daily attendance at Alcoholics Anonymous meetings for the first 90 days, weekly appointments with a counselor, and participation in several impaired physicians groups. Respondent also joined the Pennsylvania Impaired Physicians Program, which required him to attend either Alcoholics Anonymous or Narcotics Anonymous meetings, obtain counseling, and undergo two urine tests weekly, one scheduled and one random. As further evidence of his efforts toward recovery, Respondent submitted several letters from

physicians attesting to his active participation in the recovery programs.

The administrative law judge concluded that it was abundantly clear that Respondent severely abused his privilege of handling controlled substances by his prescribing and ordering Percocet to support his and his wife's addiction. Further, given his history of irresponsibility in handling controlled substances and the extent of his drug abuse relative to the length of time he has been in rehabilitation, the preponderance of credible evidence established that Respondent's continued registration would not be in the public interest at this time. The administrative law judge recommended that Respondent's DEA registration be revoked. The Acting Administrator adopts the opinion and recommended ruling, findings of fact, conclusions of law and decision of the administrative law judge in their entirety.

In determining whether a registration would be inconsistent with the public interest, the Acting Administrator must consider the following factors:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety. 2I U.S.C. 823(f).

The Acting Administrator is not required to make findings with respect to all of the factors enumerated above. The Acting Administrator has the discretion to give each factor the weight he deems appropriate, depending upon the facts and circumstances in each case. See *David E. Trawick, D.D.S.*, Docket No. 86-69, 53 FR 5326 (1988); *England Pharmacy*, 52 FR 1674 (1987); *Paul Stepak, M.D.*, 51 FR 17556 (1986); *Henry J. Schwartz. Jr., M.D*, Docket No. 88-42, 54 FR 16422 (1989).

In this case, the second, fourth and fifth factors are applicable in considering whether Respondent's registration is inconsistent with the public interest. With respect to these factors, the administrative record is replete with examples of Respondent's violations relating to controlled substances. By his own admission, Respondent misused the authority vested in him by a DEA Certificate of Registration to illegally and improperly prescribe and dispense dangerous controlled substances to himself and his wife. He issued prescriptions in fictitious names and in the names of individuals who were not intended to receive the prescribed drugs. Further, Respondent used his DEA order forms to obtain controlled substances for an unlawful purpose, self-abuse.

In light of his egregious conduct and the extent of his previous drug abuse relative to the length of time he has been in rehabilitation, the Acting Administrator concludes that Respondent's continued registration would be inconsistent with the public interest. The Acting Administrator, in reaching this conclusion, carefully considered Respondent's exceptions to Judge Bittner's opinion. However, nothing in Respondent's exceptions persuaded the Acting Administrator that Respondent should remain registered with DEA. While Respondent appears to have made great strides in his personal rehabilitation from drug addiction, the Acting Administrator is not convinced that he is now fully prepared to adequately handle the responsibilities associated with a DEA registration.

However, in light of the substantial measures Respondent has taken to treat his drug addiction and the favorable evidence presented at the DEA administrative hearing regarding Respondent's rehabilitative efforts and excellent prognosis for recovery, the Acting Administrator will waive the restrictions imposed upon a hospital by 21 CFR 1301.76(a). Under 21 CFR 1301.76(a), a hospital would be barred from employing Respondent, a person who has had a DEA registration, revoked, suspended or denied. The Acting Administrator will grant a waiver to a hospital allowing it to employ Respondent, despite the revocation of his registration. Such waiver shall be granted to allow Respondent to be affiliated with a hospital and to administer specific controlled substances in a supervised hospital environment, under the hospital's DEA Certificate of Registration, provided that Respondent agree to submit to random urinalysis, at his own expense, on a bimonthly basis for a period of one year. The waiver will also be subject to other terms and conditions to be agreed upon by the Drug Enforcement Administration and the hospital.

Having concluded that there is a lawful basis for revoking Respondent's DEA Certificate of Registration, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AS2190471, previously issued to Dean A. Steinberg, M.D. be, and it hereby is, revoked. The Acting Administrator further orders that any pending applications for renewal of said registration be, and they hereby are, denied.

This order is effective August 8, 1990.

Dated: July 2, 1990.

Terrence M. Burke,

Acting Administrator.

[FR Doc. 90-15735 Filed 7-6-90; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-90-86-C]

Enlow Fork Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Enlow Fork Mining Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Enlow Fork Mine (I.D. No. 36-074126) located in Washington and Greene Counties, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trailing cables be 500 feet.

2. There are numerous gas and oil wells through the coal seam. The mining cycle mut be altered when they are encountered, making it impractical, if not impossible, to mine with only 600 feet of shuttle car cable.

3. As an alternative method, petitioner proposes the use 800 feet of No. 4. AWG trailing cables on shuttle cars. The petitioner outlines specific procedures in the petition.

4. In support of this request, petitioner states that all circuit breakers would have instantaneous trip units calibrated to trip at 500 amperes. The trip settings of these circuit breakers would be sealed. The circuit breakers would have permanent labels. The labels would identify the circuit breakers as being suitable for protectiong the No. 4 AWG shuttle car cables.

5. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 8, 1990. Copies of the petition are available for inspection at that address.

Dated: June 28, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-15823 Filed 7-6-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-81-C]

Kerr-McGee Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kerr-McGee Coal Corporation, P.O. Box 727, Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Galatia Mine 56-1 (I.D. No. 11-02752) located in Saline County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers be kept at least 150 feet from pillar workings and not be located inby the last open crosscut.

2. Petitioner plans to continue using longwall equipment in the No. 6 seam at the mine. The width of the coal panels will require 290 horsepower to power the longwall system. In order to supply power to such a system from a power system limited to 1000 volts, the following problems arise:

(a) The ampacity requirements at 1000 volts are such that very large and heavy cables are required. These large, heavy cables can cause congested work space, handling problems, and accidents associated with sprains and strains;

(b) poor voltage regulation resulting in motor overheating and lack of torque to be supplied to the face conveyor; and

(c) At 1000 volts, the interrupting limits of the available circuit breakers are approached resulting in a diminished safety factor.

3. As an alternate method, petitioner proposes to continue using high-voltage (2400 volt) cables to supply power to permissible longwall face equipment inby the last open crosscut and within 150 feet of pillar workings in the No. 6 seam. The petitioner outlines specific equipment and procedures in the petition.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 8, 1990. Copies of the petition are available for inspection at that address.

Dated: June 29, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-15819 Filed 7-6-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-84-C]

Kerr-McGee Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kerr-McGee Coal Corporation, P.O. Box 727, Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Galatia Mine (I.C. No. 11-02752) located in Saline County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use the conveyor belt entry as a return airway in a three-entry longwall panel development with the following conditions:

(a) An atmospheric monitoring system consisting of carbon monoxide and methane sensors would be installed in belt entries used as return airways. Sensors would be placed at the section loading point, the section regulator, and at intervals not to exceed 2,000 feet;

(b) Carbon monoxide sensors would provide a visual alarm at 10 parts per million (ppm) above ambient and a visual and audible alarm at 15 ppm above ambient at the mine control center and on the working section;

(c) Methane sensors would give an audible and visual alarm at 1 percent and deenergize incoming power at 1.5 percent of methane. The audible and visual alarms for methane sensors would be provided at the mine control center; and

(d) Waterlines would be provided in the intake entry adjacent to the belt entry with fire hose outlets projected into the conveyor belt entry.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 8, 1990. Copies of the petition are available for inspection at that address.

Dated: June 29, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-15821 Filed 7-6-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-80-C]

Twentymile Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Twentymile Coal Company, P.O. Box 748, Oak Creek, Colorado 80467 has filed a petition to modify the application of 30 CFR 75.803 (fail safe ground check circuits on high-voltage resistance grounded systems) to its Foidel Creek Mine (I.D. No. 05-03836) located in Routt County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that high-voltage, resistance grounded systems include a fail safe ground check circuit to monitor continuously the ground circuit to assure continuity. The fail safe ground check circuit must cause the circuit breaker to open when either the ground or pilot check wire is broken.

2. Two pumps are installed in boreholes which were drilled into a sump area of the mine. Because the

pumps are kept underwater, it is not practical to monitor the ground all the way to the pumps.

3. As an alternate method, petitioner proposes that—

(a) The pumps would be grounded through threaded line pipe;

(b) The line pipes and borehold casings would be bonded to the neutral ground conductor at the top of each well; and

(c) The high-voltage circuit would be ground monitored to the top of each well where the entire system is bonded together as one unit. All accessible components would be monitored.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 8, 1990. Copies of the petition are available for inspection at that address.

Dated: June 25, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-15820 Filed 7-6-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-78-C]

Tanoma Mining Co. Inc.; Petition for Modification of Application of Mandatory Safety Standard

Tanoma Mining Company, Inc., R.D. 1, Box 594, Marion Center, Pennsylvania 15759 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Tanoma Mine (I.D. No. 36-06967) located in Indiana County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A. summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use air from the belt haulage entries to ventilate active working places.

3. In support of this request, petitioner proposes to install an early warning fire detection system using a low-level carbon monoxide (CO) detection system in all belt entries used as intake aircourses and at each belt drive and tailpiece located in intake aircourses. The monitoring devices would be capable of giving warning of a fire for four hours should the power fail; a visual alert signal would be activated when the CO level is 10 parts per million (ppm) above ambient air and an audible signal would sound at 15 ppm above ambient air. All persons would be withdrawn to a safe area to 10 ppm and evacuated at 15 ppm. The CO monitoring system would initiate the fire alarm signal at an attended surface location where there would be two-way communication with all personnel who may be endangered. The CO system would be capable of detecting any signal loss to any or all remote units.

4. The CO system would be visually examined a least once each shift when the belts are in operation and tested weekly to ensure the monitoring system is functioning properly and that required maintenance is being performed. The monitoring system would be calibrated with known concentrations of CO and air mixtures at least monthly.

5. If the CO monitoring system is deenergized for routine maintenance or for failure of a sensor unit, the belt conveyor would continue to operate and qualified persons would patrol and monitor the belt conveyor using handheld CO detecting devices.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard, while compliance with the standard will result in a diminution of safety to the miners.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 8, 1990. Copies of the petition are available for inspection at that address.

Dated: June 29, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-15822 Filed 7-6-90; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 90-47]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Review Team on Aeronautical Facilities.

DATES: August 2, 1990, 8 a.m. to 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, Federal Building 10B, Room 625, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Martin Stein, Office of Aeronautics, Exploration and Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2706.

SUPPLEMENTARY INFORMATION: The NAC Aeronautics Advisory Committee (AAC) was established to provide overall guidance to the Office of Aeronautics, Exploration and Technology (OAET) on aeronautics research and technology activities. Special ad hoc review teams are formed to address specific topics. The Ad Hoc Review Team on Aeronautical Facilities, chaired by Dr. Renso L. Caporali, is composed of six members.

The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the team members and other participants).

TYPE OF MEETING: Open.

Agenda

August 2, 1990

8 a.m.—Organization, Planning, and Discussion of Charter.

9 a.m.—Overview of OAET Integrated Program Planning and Major Thrust.

9:30 a.m.—Overview of NASA Construction of Facilities Process and Program Elements.

10:15 p.m.—Review of Center's Construction of Facilities Planning.

2:15 p.m.—Headquarters Reviews and Prioritization Process.

3 p.m.—Group Discussion.

5 p.m.—Adjourn.

Dated: June 29, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-15783 Filed 7-6-90; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-331]

Iowa Electric Light & Power Co.; et al.; Exemption

I

In the matter of Iowa Electric Light & Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative (Duane Arnold Energy Center)

Iowa Electric Light and Power Company, et al. (the licensee) is the holder of Facility Operating License No. DPR-49 which authorizes the operation of the Duane Arnold Energy Center (DAEC) at steady state reactor power levels not in excess of 1658 megawatts thermal. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now and hereafter in effect. The facility consists of a boiling water reactor located at the licensee's site near Palo in Linn County, Iowa.

II

The Code of Federal Regulations, 10 CFR 50.54(o), specifies that primary reactor containment for water-cooled power reactors shall comply with Appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors." Section III.A.6.(b) of appendix J to 10 CFR part 50 states the following:

> If two consecutive periodic Type A tests fail to meet the applicable acceptance criteria in III.A.5.(b), notwithstanding the periodic retest schedule of III.D., a Type A test shall be performed at each plant shutdown for refueling or approximately every 18 months, whichever occurs first, until two consecutive Type A tests meet the acceptance criteria in III.A.5.(b), after which time the retest schedule specified in III.D. may be resumed.

The containment integrated leak rate tests (Type A tests) performed during the 1985 and 1987 refueling outages at the DAEC were considered to be failures in the "as-found" condition due to penalties incurred as a result of leakage measured in Type B and Type C local leak rate tests ((LLRTs). The Type A test conducted during the 1988 refueling outage was successful in the "as-found" condition. However, the licensee is still required to conduct a Type A test at the upcoming refueling outage, commencing in June 1990.

As an alternative to performing the required Type A test, the licensee has submitted a Corrective Action Plan to eliminate excessive local leakage in accordance with the guidance provided in NRC Information Notice 85-71, "Containment Integrated Leak Rate Tests," dated August 22, 1985. The Corrective Action Plan is in lieu of the increased test frequency required by Section III.A.6.(b) of appendix J to 10 CFR part 50. Therefore, an exemption from this requirement is needed.

III

By letter dated April 2, 1990, the licensee requested a one-time exemption from 10 CFR part 50, appendix J, section III.A.6.(b), to allow a return to the normal Type A retest schedule of section III.D. of Appendix J. The accelerated Type A test frequency was required due to failures of the Type A tests (in the "as-found" condition) conducted at the DAEC in 1985 and 1987. These test failures were the direct result of leakage rate penalties from Type B and C local leak rate tests (LLRTs), which were added to the measured Type A leakage rate to calculate the total "as-found" containment integrated leakage rate. Specifically, excessive leakage from the inboard feedwater check valves and from the Main Steam Isolation Valves (MSIVs), as measured during Type C testing of those valves, resulted in the total Type A leakage exceeding the acceptance criteria. Although a successful Type A test was performed in December 1988, leakage from the inboard feedwater check valves and MSIVs again comprised the major portion (63%) of the total "as-found" leakage.

The licensee's Corrective Action Plan describes the modification, testing and preventive maintenance programs implemented or planned to improve the leakage characteristics for these valves. The inboard feedwater check valves were modified during the 1988 refueling outage, including the installation of soft seats, which have been effective in reducing leakage from similar valves at other facilities. The effectiveness of these modifications will be confirmed through the Type C tests of these valves performed at each refueling outage. In addition, the preventative maintenance (PM) program will require disassembly and inspection of these valves at each refueling outage, thereby ensuring that degradation will be detected and corrective maintenance performed.

Extensive modifications to all eight MSIVs will be made during the 1990 refueling outage, as described in the Corrective Action Plan. These modifications address the primary contributors to local leak rate test failures as identified by the industry and the NRC. Additional modifications to the MSIVs are also directed at improving valve reliability. These modifications are expected to significantly improve MSIV leakage performance, as they have been proven effective through industry experience or testing. Local leak rate tests will be performed on the MSIVs at each refueling outage, in addition to the testing required by the DAEC Inservice Testing Program, normally performed in conjunction with Type C tests. This testing will confirm the effectiveness of the modifications. The PM program for the MSIVs will also require disassembly and inspection of each valve at least once per three operating cycles, although excessive leakage identified during testing would necessitate immediate disassembly and repair. The PM program for both the feedwater check valves and the MSIVs will also provide trending information for the continuing evaluation of valve performance, which will dictate changes to PM practices or further design improvements.

The licensee's Corrective Action Plan for the inboard feedwater check valves and MSIVs, consisting of modification, testing and preventive maintenance programs, will provide an equivalent degree of assurance that containment integrity will be maintained as that provided by an additional Type A test performed on the accelerated frequency specified by section III.A.6.(b) of appendix J. The NRC staff concludes that a return to the normal retest schedule of section III.D. of appendix J is justified. The staff's Safety Evaluation dated June 29, 1990 provides additional details and bases supporting the requested exemption.

IV

The underlying purpose of the requirements of section III.A.6.(b) of appendix J to 10 CFR part 50 is to ensure the integrity of the primary containment and its penetrations. As discussed above, the underlying purpose is achieved through the licensee's comprehensive Corrective Action Plan. Thus, an equivalent level of protection is provided.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(1), this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and

security. The Commission has further determined that special circumstances, as set forth in 10 CFR 50.12(a)(2)(ii) are present, justifying the exemption; namely that application of the regulation in this particular circumstance is not necessary to achieve the underlying purpose of the rule. Accordingly, the Commission hereby grants an exemption to section III.A.6.(b) of appendix J to 10 CFR part 50 to allow the licensee to resume the Type A retest schedule of section III.D. of appendix J for the Duane Arnold Energy Center. If the next Type A test is deemed a failure by the NRC acceptance criteria, the schedule for future type A tests must be reviewed and approved by the Commission, as required by section III.A.6.(a) of appendix J.

Pursuant to 10 CFR 51.21, 51.32, and 51.35, an environmental assessment and finding of no significant impact has been prepared and published in the **Federal Register** on June 27, 1990 (55 FR 26305). Accordingly, based upon the environmental assessment, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment.

A copy of the licensee's request for exemption dated April 2, 1990, is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Cedar Rapids Public Library, 500 First Street SW., Cedar Rapids, Iowa, 52401.

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 29th day of June 1990.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Director, Division of Reactor Projects III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-15791 Filed 7-6-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275A and 50-323A]

Pacific Gas & Electric Co., Diablo Canyon Nuclear Power Plant Units 1 and 2; Issuance of Director's Decision

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission (NRC), has issued the Director's Decision concerning petitions dated December 4, 1981, and August 1, 1984, filed by Robert C. McDiarmid, Esq., et al., on behalf of the Northern California Power Agency (petitioner). A supplement to the petitions was filed on March 19, 1985. The petitioner requested that the NRC take certain enforcement actions against the Pacific Gas & Electric Company (PG&E) for allegedly violating the antitrust license conditions applicable to Diablo Canyon. In a related action, brought by the United States against PG&E to recover payment for energy sold by the Western Area Power Administration and used by several cities in California, the United States District Court of the Northern District of California issued a ruling on June 8, 1989, that dealth with many of the same issues raised by the petitioner. *United States of America* v. *Pacific Gas and Electric Company*, 714 F. Supp. 1039 (N.D. CA., 1989).

The Director has determined that PG&E violated certain of its Diablo Canyon antitrust license conditions, for the reasons explained in the "Director's Decision Under 10 CFR 2.206" (DD-90-3), which is available for inspection in the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555 and at the local Public Document Room for the Diablo Canyon Nuclear Power Plant located at the California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

A copy of the Director's Decision has been filed with the Secretary of the Commission for Commission review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), the Decision will become the final action of the Commission 25 days after issuance, unless the Commission on its own motion institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 29th day of June, 1990.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 90-15790 Filed 7-6-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: John Daley, (202) 606-0950.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on May 29, 1990 (55 FR 12973). Individual authorities established or revoked under Schedule A, B, or C between May 1, 1990, and May 31, 1990, appear in listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30, 1990.

Schedule A

No Schedule A authorities were established or revoked during May.

Schedule B

No Schedule B authorities were established or revoked during May.

Schedule C

U.S. Arms Control and Disarmament Agency

One Secretary (Stenography) to the Assistant Director, Verification and Intelligence Bureau. Effective May 4, 1990.

Department of the Air Force

One Secretary (Stenography) to the Assistant Secretary (Financial Management and Comptroller). Effective May 7, 1990.

One Special and Confidential Assistant to the Assistant to the Vice President (Legislative Affairs). Effective May 7, 1990.

One Secretary (Stenography) to the General Counsel. Effective May 7, 1990.

Department of Agriculture

One Private Secretary to the Director, Office of Public Affairs. Effective May 7, 1990.

One Private Secretary to the Administrator, Federal Grain Inspection Service. Effective May 7, 1990.

One Deputy Press Secretary to the Press Secretary. Effective May 9, 1990.

One Deputy Director, Publishing and Visual Communications, to the Director, Office of Public Affairs. Effective May 9, 1990.

One Staff Assistant to the Administrator, Agricultural Stabilization and Conservation Service. Effective May 23, 1990.

One Director, "Ag in Classroom" Program, to the Administrator, Cooperative State Research Service. Effective May 23, 1990.

One Confidential Assistant to the Administrator, Food Safety and

Inspection Service. Effective May 25, 1990.

One Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective May 25, 1990.

Appalachian Regional Commission

One Public Affairs Advisor to the Federal Co-Chairman. Effective May 23, 1990.

Department of the Army

One Secretary (Typing) to the Assistant Secretary (Financial Management). Effective May 2, 1990.

One Secretary (Stenography) to the General Counsel. Effective May 2, 1990.

Commission on Civil Rights

One Special Assistant to a Commissioner. Effective May 4, 1990.

One Executive Assistant to the Staff Director. Effective May 24, 1990.

Department of Commerce

One Confidential Assistant to the Deputy to the Chief of Staff and Executive Secretary. Effective May 2, 1990.

One Confidential Assistant to the Director, Office of Public Affairs. Effective May 7, 1990.

One Confidential Assistant to the Deputy Assistant Secretary for Loan Programs, Economic Development Administration. Effective May 11, 1990.

Two Confidential Assistants to the Director, Office of White House Liaison. Effective May 14, 1990.

One Special Assistant to the Deputy Assistant Secretary for Export Administration. Effective May 25, 1990.

Consumer Product Safety Commission

One Secretary (Typing) to the Chairman. Effective May 3, 1990.

One Special Assistant to a Commissioner. Effective May 7, 1990.

Department of Defense

Special Assistant to the Principal Deputy Under Secretary (Strategy and Resources). Effective May 3, 1990.

One Private Secretary to the Principal Deputy Under Secretary (International Security Policy). Effective May 7, 1990.

One Representative of the Secretary of Defense to the Conference on Disarmament to the Assistant Secretary (Intergovernmental Security Policy). Effective May 7, 1990.

One Personal and Confidential Assistant to the Principal Deputy Under Secretary for Acquisition. Effective May 7, 1990.

One Personal and Confidential Secretary to the Assistant Secretary (Legislative Affairs). Effective May 7, 1990.

One Private Secretary to the Deputy Under Secretary for Acquisition Planning. Effective May 7, 1990.

One Special Assistant to the Assistant Secretary for Production and Logistics. Effective May 31, 1990.

Department of Energy

One Deputy Press Secretary for Field Operations to the Press Secretary. Effective May 4 1990.

One Staff Assistant to the Assistant Secretary for Nuclear Energy. Effective May 4, 1990.

One Staff Assistant to the Assistant Secretary for Fossil Energy. Effective May 11, 1990.

One Staff Assistant to the Principal Deputy Assistant Secretary for Congressional and Intergovernmental Affairs. Effective May 11, 1990.

One Staff Assistant to the Deputy Secretary. Effective May 14, 1990.

One Special Assistant to the Chief of Staff. Effective May 15, 1990.

One Staff Assistant to the Deputy Under Secretary, Office of Policy, Planning and Analysis. Effective May 25, 1990.

Department of Transportation

One Staff Assistant to the Assistant Secretary for Government Affairs. Effective May 3, 1990.

One Staff Assistant to the Special Assistant for Personnel and Organization Management. Effective May 17, 1990.

One Staff Assistant to the Deputy Secretary of Transportation. Effective May 25, 1990.

One Special Assistant to the Assistant Secretary for Public Affairs. Effective May 29, 1990.

One Special Assistant to the Assistant Secretary for Public Affairs. Effective May 30, 1990.

Department of Education

One Confidential Assistant to the Director, Private Sector Initiative Staff. Effective May 2, 1990.

One Special Assistant to the Secretary's Regional Representative, Washington, DC. Effective May 2, 1990.

One Special Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs. Effective May 14, 1990.

One Confidential Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs. Effective May 14, 1990.

One Legislative Liaison Specialist to the Director, Legislative Affairs. Effective May 14, 1990.

One Special Assistant to the Deputy Under Secretary for Planning, Budget and Evaluation. Effective May 14, 1990.

One Deputy to the Director, Office of Bilingual Education and Minority Language Affairs. Effective May 17, 1990.

One Deputy to the Director, Public Affairs Service. Effective May 22, 1990.

One Special Assistant to the Deputy Assistant Secretary, Office of Special Education and Rehabilitative Services. Effective May 25, 1990.

Environmental Protection Agency

One Staff Assistant to the Director, Congressional Liaison Division. Effective May 23, 1990.

One Special Assistant to the Deputy Administrator. Effective May 25, 1990.

Export-Import Bank of the United States

One Administrative Assistant to a Director. Effective May 23, 1990.

Federal Communications Commission

One Special Assistant to the Chief, Common Carrier Bureau. Effective May 30, 1990.

Federal Maritime Commission

One Secretary (Stenography) to a Commissioner. Effective May 3, 1990.

One Special Assistant to the Chairman. Effective May 8, 1990.

Department of Health and Human Services

One Director of Speechwriting to the Deputy Assistant Secretary for Public Affairs (Media). Effective May 7, 1990.

One Associate Administrator to the Assistant Secretary for Family Support Administration. Effective May 14, 1990.

One Special Assistant for Liaison to the Associate Commissioner for Legislative Affairs, Food and Drug Administration. Effective May 18, 1990.

One Special Assistant to the Director of Communications. Effective May 23, 1990.

One Special Assistant to the Deputy Assistant Secretary for Public Affairs (Media). Effective May 25, 1990.

Department of Housing and Urban Development

One Special Assistant to the Deputy Assistant Secretary for Single Family Housing. Effective May 2, 1990.

One Special Assistant to the Director, Executive Secretariat. Effective May 8, 1990.

One Special Assistant to the Secretary. Effective May 17, 1990.

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations. Effective May 18, 1990.

One Executive Assistant to the Regional Administrator-Regional

Housing Commissioner, Philadelphia, PA. Effective May 18, 1990.

One Special Assistant to the Deputy Assistant Secretary for Policy Development. Effective May 18, 1990.

One Supervisory Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective May 18, 1990.

One Legislative Officer to the Deputy Assistant Secretary for Legislation. Effective May 24, 1990.

Interstate Commerce Commission

One Staff Advisor (Economics) to a Commissioner. Effective May 2, 1990.

One Associate Director for Intergovernmental Affairs to the Director, Office of External Affairs. Effective May 7, 1990.

One Confidential Assistant to a Commissioner. Effective May 9, 1990.

Department of the Interior

One Special Assistant to the Under Secretary. Effective May 2, 1990.

One Public Affairs Specialist (Associate Press Secretary) to the Assistant to the Secretary and Director, Office of Public Affairs. Effective May 25, 1990.

Department of Justice

One Confidential Assistant to the Director, Office of Liaison Services. Effective May 11, 1990.

Department of Labor

One Secretary (Typing) to the Director, Women's Bureau. Effective May 2, 1990.

One Assistant to the Secretary's Representative, Chicago. Effective May 2, 1990.

One Staff Assistant to the Deputy Under Secretary for International Affairs. Effective May 11, 1990.

One Special Assistant to the Deputy Assistant Secretary for Program Economics and Research and Technical Support. Effective May 14, 1990.

One Executive Assistant to the Administrator, Wage and Hour Division, Employment Standards Administration, Effective May 18, 1990.

One Special Assistant to the Assistant Secretary for Occupational Safety and Health. Effective May 15, 1990.

Department of the Navy

One Private Secretary to the Assistant Secretary (Manpower and Reserve Affairs). Effective May 29, 1990.

One Private Secretary to the Assistant Secretary (Research, Development and Acquisition). Effective May 29, 1990.

National Endowment for the Humanities

One Special Assistant to the Deputy Chairman. Effective May 23, 1990.

National Transportation Safety Board

One Secretary (Typing) to the Chairman. Effective May 17, 1990.

One Special Assistant to a Member. Effective May 18, 1990.

One Director of Public Affairs to the Chairman. Effective May 23, 1990.

Office of National Drug Control Policy

One Law Clerk to the General Counsel. Effective May 3, 1990.

One Legislative Assistant to the Acting Director, Congressional Relations. Effective May 25, 1990.

Office of Personnel Management

One Staff Assistant to the Director, Office of Executive Administration. Effective May 1, 1990.

One Special Assistant to the Director, Office of Communications. Effective May 25, 1990.

Securities and Exchange Commission

One Secretary (Stenography) to the Director, Division of Enforcement. Effective May 2, 1990.

One Communications Policy Specialist to the Chairman. Effective May 2, 1990.

One Secretary (Typing) to the Chief Economist. Effective May 8, 1990.

One Secretary (Typing) to the Director, Office of International Affairs. Effective May 8, 1990.

One Confidential Assistant to the Commissioner. Effective May 8, 1990.

One Executive Aide (Typing) to the Executive Assistant to the Chairman. Effective May 17, 1990.

Department of State

One Secretary (Typing) to the Coordinator, Bureau of International Communications and Information Policy. Effective May 7, 1990.

Department of the Treasury

One Special Assistant (Administrative Operations) to the Deputy Assistant Secretary for Administration. Effective May 24, 1990.

One Staff Assistant to the Deputy Assistant Secretary (Public Liaison). Effective May 31, 1990.

Department of Veterans Affairs

One Special Assistant to the Assistant Secretary for Human Resources and Administration. Effective May 4, 1990.

Authority: 5 U.S.C. 3301; E.O. 10555, 3 CFR 1954 1958 Comp., R218.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90–15739 Filed 7–6–90; 8:45 am]

BILLING CODE 6325–01–M

OVERSIGHT BOARD

Oversight Board Meeting

AGENCY: Oversight Board.

ACTION: Notice of cancellation.

DATES: Thursday, July 12, 1990, 2 p.m.–3 p.m. (55 FR 26317, June 27, 1990).

ADDRESSES: General Services Administration Auditorium, 1st Floor, 18th and F Streets NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Diane M. Casey, Vice President, Office of Public Affairs, Oversight Board, 1777 F Street, NW., Washington, DC 20232, (202) 786–9672.

SUPPLEMENTARY INFORMATION: Date for the Oversight Board meeting to be determined.

Dated: July 3, 1990.

Diane M. Casey,

Office of Public Affairs.

[FR Doc. 90–15839 Filed 7–6–90; 8:45 am]

BILLING CODE 2221–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–28157; File No. SR–GSCC–90–02]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Membership in Securities Clearing Group

June 28, 1990.

The Government Securities Clearing Corporation ("GSCC"), on March 6, 1990, filed a proposed rule change (File No. SR–GSCC–90–02) with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on April 18, 1990, to solicit comments from interested persons.[2] No comments were received. This order approves the proposal.

I. Description of the Proposal

The proposal adopts a new Rule 29 (Release of Clearing Data) and a Statement of Policy on the Release of Information ("Statement of Policy"), which together form the basis for GSCC's ability to enter into an agreement with the other clearing

[1] 15 U.S.C. 78s(b)(1).

[2] *See* Securities Exchange Act Release No. 27886 (April 10, 1990), 55 FR 14539.

agencies that constitute the Securities Clearing Group ("SCG").[3] A key of SCG is to develop procedures for the sharing of appropriate financial, operational, and clearing data on common clearing agency participants in order to minimize risks posed by such common participants.

GSCC's proposed Rule 29 defines "clearing data" to mean transaction data that is received by GSCC for inclusion in its clearance and settlement processes, or reports or summaries thereof. Rule 29 further provides, among other things, that GSCC, at its sole discretion, may release such data to: (1) Other self-regulatory organizations ("SROs"), (2) appropriate regulatory agencies, and (3) other persons where the data shall be in such form as to prevent unauthorized disclosure. GSCC states that it would condition the release of such data on a written request or a written agreement.

The proposed Statement of Policy, among other things, recognizes GSCC's obligation as an SRO: (1) To share clearing, financial, and operating information on its members with other SROs for regulatory purposes, (2) to examine the clearing, financial, and operating condition of its members, and (3) to maintain an appropriate degree of confidentiality regarding such information. The proposed Statement of Policy further provides that GSCC, in accordance with its responsibilities under the Act and its rules, may enter into an agreement with other registered clearing agencies in order to share financial and operating information relating to clearing members who are members of more than one registered clearing agency.[4]

II. Rationale for the Proposal

GSCC states that it wishes to adopt a set of documents that would form the basis for GSCC's entering into an agreement with the other clearing agencies that constitute the SCG, and which would enable GSCC to share information and engage in coordinated action in order to identify and address problems and risks common to clearing agencies.

III. Discussion

The Commission believes that the proposal is consistent with the Act and, in particular, with Section 17A of the Act. Proposed Rule 29 and the Statement of Policy authorize GSCC to share information regarding the clearing, financial, and operating status of its clearing members with other clearing agencies pursuant to the SCG Agreement.

Section 17A(a)(1)(D) of the Act expressly encourages the linking of clearance and settlement facilities and the development of uniform standards and procedures. Section 17A(a)(2) of the Act directs the Commission, having due regard for the public interest, to use its authority, to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions. Furthermore, section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

The Commission believes that a nexus exists among SCG member clearing agencies and GSCC. This nexus includes: (1) Many common participants, (2) shared operational and financial exposure, and (3) common regulatory responsibilities. The Commission believes that GSCC's membership in SCG, a formal organization designed to strengthen common regulatory, operational, and member monitoring obligations, will further the goals of the National Clearance and Settlement System. The Commission also believes that SCG membership for GSC will improve the clearing agencies' monitoring and communications network and will help them to detect potential defaults by common clearing members in time to minimize related financial loss.

The SCG Agreement was approved by Commission order in July 1989 after extensive analysis.[5] Accordingly, the issues raised by GSCC's proposal are not matters of first impression for the Commission. For the reasons discussed in this order, which are discussed in greater detail in the order approving the SCG Agreement, the Commission believes that this proposal is consistent with the Act, particularly Section 17A of the Act, and that it warrants approval.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the requirements of the Act, particularly Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, That the above-mentioned proposed rule change (File No. SR-GSCC-90-02) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority (17 CFR 200.30-3(a)(12)).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-15875 Filed 7-6-90 8:45 am]

BILLING CODE 8010-01-M

[3] The SCG Agreement is the governing document of the SCG, a voluntary organization of clearing agencies that are registered with the Commission under Section 17A(b) of the Act. *See* Securities Exchange Act Release No. 27044 (July 18, 1989), 54 FR 30963.

Members of SCG include: Boston Stock Exchange Clearing Corporation, Depository Trust Company, Midwest Clearing Corporation, Midwest Depository Trust Company, MBS Clearing Corporation, National Securities Clearing Corporation, Options Clearing Corporation, Philadelphia Depository Trust Company, and Stock Clearing Corporation of Philadelphia.

[4] For the text of the SCG Agreement, *see* Securities Exchange Act Release No. 26300 (November 21, 1988), 53 FR 46353.

[5] *See, supra*, note 2.

[Rel. No. 34-28156; File No. SR-NSCC-90-08]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving, on an Accelerated Basis, a Proposed Rule Change Relating to the Admission to Securities Clearing Group of Government Securities Clearing Corporation

June 28, 1990.

On May 5, 1990, the National Securities Clearing Corporation ("NSCC") filed a proposed rule change (File No. SR-NSCC-90-08) with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the Federal Register on June 7, 1990.[2] No comments were received by the Commission. This order approves the proposal on an accelerated basis.

I. Description of the Proposal

The proposed rule change consists of an amendment to the Securities Clearing Group ("SCG") Agreement [3] to admit Government Securities Clearing Corporation ("GSCC") as a member of SCG. The SCG Agreement was executed on October 19, 1988 by the seven

[1] 15 U.S.C. 78s(b)(1).

[2] *See* Securities Exchange Act Release No. 28067 (May 29, 1990), 55 FR 23328.

[3] For the full text of the SCG Agreement, *see* Securities Exchange Act Release No. 26300 (November 21, 1988), 53 FR 46353.

founding members of SCG.[4] The Agreement was approved by the Commission on July 18, 1989.[5] A key goal of SCG is to develop procedures for the sharing of appropriate financial, operational, and clearing data on common clearing agency participants in order to minimize risks posed by such common participants.

The proposal states that GSCC, which was formed by NSCC in 1986 to clear and settle U.S. Government securities transactions, is a clearing agency self-regulatory organization and is registered under section 17A of the Act. The filing further states that GSCC has clearing agency participants in common with other members of SCG and that, therefore, it shares operational and financial exposure with SCG members. NSCC asserts that the inclusion of GSCC in SCG would expand SCG's sources for information sharing and would further enable SCG to minimize the risks of its member clearing agencies.

II. Rationale

NSCC states in its filing that the proposal, by admitting GSCC to the SCG, would foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions pursuant to section 17A of the Act.

III. Discussion

The Commission believes that NSCC's proposal is consistent with the Act. As required by the SCG Agreement, GSCC is a clearing agency and a self-regulatory organization. Moreover, the Commission believes that increasing SCG membership will increase SCG's sources of information sharing and thereby make SCG more effective, which, in turn, will minimize financial and operational risks to clearing agencies.

The Commission notes that it addressed these issues in detail in Securities Exchange Act Release No. 27044, the Commission's order that approved the SCG Agreement and established SCG.[6] In that order, the Commission emphasized that a nexus or interdependence exists among clearing agencies.[7] The Commission concluded, among other things, that the risks shared by clearing agencies, particularly the risk of default by a common participant, can be reduced by greater communication among clearing agencies, including a sharing of information by clearing agencies on their common participants. The Commission determined that the formation of SCG was the best way to address this problem.

Moreover, when the SCG was formed, its founding members intended that its membership would be expanded, pursuant to the terms of the SCG Agreement. GSCC, as a clearing agency registered under the Act, qualifies for SCG membership. Accordingly, the Commission believes that the proposal is consistent with the Act, particularly section 17A of the Act, and that it should be approved.

The Commission finds "good cause" under section 19(b)(2) of the Act for approving this proposal prior to the thirtieth day after publication of notice inasmuch as: (1) It will enable SCG members to exchange information with GSCC on common participants, which is in the public interest; and (2) no comments have been received to date on a related GSCC proposed rule change (SR-GSCC-90-02), notice of which appeared in the Federal Register on April 18, 1990.[8]

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, That the above-mentioned proposed rule change (File No. SR-NSCC-90-08) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 90-15816 Filed 7-6-90; 8:45 am]
BILLING CODE 8010-01-M

[4] The seven founding members of SCG were: NSCC, Depository Trust Company, Midwest Clearing Corporation, Midwest Securities Trust Company, Options Clearing Corporation, Philadelphia Depository Trust Company, and Stock Clearing Corporation of Philadelphia.

[5] *See* Securities Exchange Act Release No. 27044 (July 18, 1989), 54 FR 30963.

[6] *See id.*

[7] The Commission stated that this nexus among clearing agencies includes: (1) common participants, (2) operational interfaces between clearing agencies, (3) shared operational and financial exposure, and (4) common regulatory responsibilities. *Id.*

[8] *See* Securities Exchange Act Release No. 27886 (April 10, 1990), 55 FR 14539.

[9] 17 CFR 200.30-3(a)(12).

[Rel. No. 34-28167; File No. SR-NYSE-89-10]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Temporarily Approving Proposed Rule Change To Modify the Exchange's Procedures for Handling and Executing Market-on-Close Orders

I. Introduction

On June 2, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend the Exchange's Rules in order to provide market-on-close ("MOC") orders with the closing price whenever practicable, and to allow for the execution of matched MOC orders entered by the same firm. In addition, on December 11, 1989, the Exchange requested that the Commission approve the proposed rule change for a one year pilot period.[3]

The proposed rule change was noticed in Securities Exchange Act Release No. 26921 (June 13, 1989), 54 FR 26127 (June 21, 1989). No comments were received on the proposal.

II. Proposal

The Exchange has proposed to amend its Rules to modify its procedures for handling and executing MOC orders to provide (1) that such an order is to be executed in its entirety at the closing price on the Exchange and, if not so executed, is to be cancelled; and (2) for the entry and execution of matched MOC orders.[4]

In response to requests by member firms, the Exchange proposes to amend its MOC execution process to assure that MOC orders will receive the closing price in a stock. If an MOC order cannot be executed in full at the closing price, it will be cancelled.[5] Member firms have informed the NYSE that such pricing is necessary to facilitate program trading strategies such as "portfolio rebalancing" and "Exchanges for

[1] 15 U.S.C. 78s (b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] *See* Amendment No. 1 to File No. SR-NYSE-89-10, submitted to the Commission on December 11, 1989.

[4] The NYSE Rules which will be affected by the modification include Rules 13, 116, and 123.

[5] The Exchange anticipates that an execution at the closing price would not be possible in certain circumstances such as when trading has halted in the security or when there are special conditions to the order (*e.g.*, "buy-minus" or "sell-plus") that cannot be met.

Physicals" ("EFPS").[6] The NYSE stated that current Exchange order execution rules and procedures do not provide the necessary certainty that member firms and their customers will receive closing prices for MOC orders, and, indeed, can result in executions of the firm side and customer side of an order at different prices.[7] Because of this lack of pricing certainty, such orders currently are being executed off-shore.[8]

In addition, the Exchange proposes to amend the MOC order execution procedures to allow for the execution of matched MOC buy and sell orders entered by the same firm. The Exchange states that member firms have indicated that such an execution is necessary to meet regulatory requirements governing EFPs.[9] Currently, the Exchange provides for this procedure only on "Expiration Fridays." Furthermore, the proposed matched orders will be exempt from any other applicable Exchange limitations (*E.g.*, the Expiration Friday deadlines for order entry).[10]

The Exchange believes that the proposed MOC procedures are both similar to and an extension of current Exchange rules and procedures. In particular, the Exchange notes that the MOC proposal only will result in applying the current Expiration Friday closing procedures, with minor differences such as the absence of timing deadlines, on a daily rather than monthly basis.[11]

III. Discussion and Conclusion

After careful review, the Commission has decided to approve the proposed rule change for a period of one year. The Commission believes that the NYSE's proposal is designed to promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. For these reasons and for the additional reasons set forth below, the Commission finds that approval of the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6(b)(5) of the Act.[12]

Over the past several years, the use of composite-asset trading techniques and strategies by institutional investors has increased substantially. Both the stock exchanges and broker-dealers have developed products to facilitate the trading of portfolios of securities.[13] In addition, broker-dealers have used EFPs to satisfy their customers' needs in this area. The NYSE's proposal is another attempt to respond to the demand of customers and member firms to engage in index-related trades.

The Commission agrees with the NYSE that the MOC proposal responds to existing demand for a means to execute such trading stategies at the closing price in U.S. securities that currently are being executed overseas because of the current lack of pricing certainty. According to program trading reports filed with the NYSE by its members, an average of 18.1% of program trades in NYSE stocks were effected overseas in 1989.[14] The NYSE's MOC proposal is intended to attract the order flow being executed overseas back to the NYSE, with the attendant benefits of Commission and Exchange oversight pursuant to the Act, trade reporting, and consolidated surveillance.[15]

The Commission is concerned, however, that matched MOC orders will be executed without the opportunity for order exposure or interaction with the trading crowd. This is different from the auction market procedures normally used on the Exchange, and possibly could result in some customer orders in the crowd or on the limit order book being by-passed. Moreover, the NYSE proposal is in part necessitated by the restrictions imposed by NYSE Rule 390.[16] The Commission believes that the purpose of the proposal could be better accommodated long-term by the development of an after-hours trading system which would permit the

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[6] "Portfolio rebalancing" occurs where a firm buys from and sells to its customer certain securities to adjust the customer's portfolio so that it continues to mirror a particular index. An EFP is a transaction where a party exchanges a long (short) futures position for an equivalently valued long (short) portfolio stock position. EFP transactions normally take place after the NYSE close and are completed in accordance with futures contract market regulations which require that the purchase and sale of the futures contract be simultaneous with the sale and purchase of an equal quantity of stock. *See* Commodity Exchange Act section 4c(a) and Rule 1.38 thereunder; Chicago Mercantile Exchange Rule 538; and Commodity Futures Trading Commission Report on Exchanges for Physicals (October 1, 1987).

[7] *See* letter from Richard A. Grasso, President and Chief Executive Officer, NYSE, to Richard G. Ketchum, Director, Division of Market Regulation, Commission, dated October 23, 1989.

[8] *Id.*

[9] The rules of the futures exchanges require that both the futures and stock legs of an EFP be executed solely between two parties. *See, e.g.*, Chicago Mercantile Exchange Rule 538. The Exchange believes that any potential for a "break-up" of the stock portion of an EFP would jeopardize the ability of a broker-dealer to engage in an EFP trade with its customers. *See* letter from Richard A. Grasso, President and Chief Executive Officer, NYSE, to Richard G. Ketchum, Director, Division of Market Regulation, Commission, dated October 23, 1989.

[10] The special procedures which apply on Expiration Fridays will continue to apply on those days. *See* NYSE Rule 116.40.

[11] In addition, the Exchange states that the MOC proposal is similar to its current options priority rules in that one leg of a combination order is allowed to take priority over other orders at the same price. *See* NYSE Rule 753.10; letter from Richard A. Grasso, President and Chief Executive Officer, NYSE, to Richard G. Ketchum, Director, Division of Market Regulation, Commission, dated October 23, 1989.

[12] 15 U.S.C. 78f(b) (1982).

[13] *See, e.g.*, Securities Exchange Act Release No. 27382 (October 26, 1989) 54 FR 45834 (Commission order approving File No. SR-NYSE-89-05, a proposed rule change submitted by the NYSE designed to enable the trading of standardized baskets of stocks at an aggregate price in a single execution on the NYSE floor); Securities Exchange Act Release No. 27384 (October 26, 1989), 54 FR 45852 (Commission order approving File No. SR-MSE-89-02, a proposed rule change designed to establish a Secondary Trading Session for the execution of transactions in portfolios of securities through the Midwest Stock Exchange's new automated Portfolio Trading System); Securities Exchange Act Release No. 27383 (October 26, 1989), 54 FR 45846 (Commission order approving File No. SR-CBOE-88-20, a proposed rule change submitted by the Chicago Board Options Exchange ("CBOE") also designed to enable the trading of standardized baskets of stocks at an aggregate price in a single execution on the CBOE); and letter from Brandon Becker, Associate Director, Division of Market Regulation, SEC, to Lloyd H. Feller, Esq., Morgan Lewis and Bockius, dated July 28, 1987 (no-action letter issued by the Commission staff under sections 5 and 6 of the Act on behalf of a request by Jeffries and Co., Inc. to implement a computerized order entry mechanism to allow for trading customized portfolios of stocks).

[14] *See* NYSE's Public Reports on Program Trading.

[15] The Exchange also has requested a limited exemption from the Commission's short sale rule for an MOC sell order entered as part of a paired MOC order. Pursuant to Rule 10a-1 under the Act, 17 CFR 240.10a-1 (1989), and Exchange Rule 440B, a short sale on the Exchange may not be effected at a price either (1) below the last reported price or (2) at the last reported price unless that price is higher than the last reported different price. The Commission believes that matched MOC orders that are part of a program trading strategy do not raise the same concerns that are applicable to transactions in individual stocks, and that it is appropriate to exempt such transactions from the operation of the short sale rule. Accordingly, the Commission's staff expects to issue a letter granting appropriate relief from Rule 10a-1 regarding an MOC order to sell short that is entered by a member firm where (1) the member firm also has entered an MOC order to buy the same amount of stock, and (2) the MOC order is part of a program trading strategy by the member firm, and the orders are identified as such.

[16] In general, NYSE Rule 390 prohibits a member from effecting a transaction otherwise than on an exchange as principal or as an in-house agency cross in a security listed on the exchange before April 26, 1979.

participation of other orders,[17] or in the alternative, an amendment to Rule 390 for after-hours trading.

Because the proposed MOC procedures are similar to procedures currently used by the Exchange on Expiration Fridays, however, and because of the anticipated benefits of the proposed procedures, the Commission agrees with the Exchange that it would be appropriate to approve the proposed rule change for a one-year pilot period. During this period, the Commission expects the Exchange to develop criteria to evaluate the effects of the MOC procedures and to determine whether alternative measures such as, for example, an after-hours trading system or an amendment to Rule 390, should be adopted to provide more open and efficient means to handle these orders. Finally, the Commission wishes to emphasize that evidence supporting a decrease in the amount of orders being executed off-shore, in itself, would not necessarily demonstrate the effectiveness of the pilot.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[18] that the proposed rule change is approved for a one year pilot period ending on June 29, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Dated: June 29, 1990.

Margaret H. McFarland,

Deputy Secretary.

Separate Statement of Commissioner Fleischman

In concurring in the foregoing Order I find that there are two points to be given added emphasis.

First, it warrants more than passing mention that the rule changes proposed by NYSE depart from NYSE's normal auction market procedures in providing for execution of matched MOC orders without any opportunity for order exposure or interaction.[1] The NYSE's benevolent purposes (seeking to attract to the oversight structure of the U.S. domestic marketplace certain order flow currently executed overseas [2] and to respond to market needs for facilitation of certain trading strategies) [3] and NYSE's concern for antimanipulative protection (reflected in the requirement for paired MOC orders) [4] do not require that customer orders in the crowd or on the limit order book lose time and price priority, or indeed give way to an inferior-priced cross. That result comes, presumably, because "[a]ny potential for a 'break-up' of the stock portion of an EFP" would offend present futures exchange rules governing exchanges of stock index futures contracts for the underlying physical stock positions.[5] The Commission's file in this proposed rule change, while reflecting an NYSE assessment of the lack of effectiveness of the MSE basket trading rule that permits crossing of matched orders only in the absence of an unmatched order at the same or a better price,[6] includes neither an NYSE refutation of the desirability of normal auction market priority nor an NYSE statement of intention to discuss with the CFTC possible methods to accommodate the normal order priority in the MOC context within the provisions of the Commodity Exchange Act and the regulations thereunder applicable to EFPs.

I do not believe that the forfeiture of normal auction market procedures is justified, or has been proven by NYSE to be required, in order to effect the purposes of these proposed rules. In fact, I believe the contrary, and I am startled that the champion of the auction market should so quickly concede that order book and crowd protection be surrendered for a cross, even an MOC cross. Nevertheless I concur in the Order because, as I have stated at length elsewhere,[7] I am firm in the view that the officers and governors of the several securities exchanges and the NASD know their markets more intimately and understand their markets more thoroughly than any governmental regulatory agency (not to speak of any single individual participating in a regulatory role).

Second, I am particularly pleased that the Commission has explained to NYSE, at the time of approving this "pilot," what the Commission expects of NYSE at the end of the pilot period.[8] Prior experience has convinced me that the Commission, the SROs and the public benefit if, at the beginning of a pilot program, criteria are set forth under which the SRO may, at the expiration of the pilot, continue to carry the burden of persuading the Commission that its rule changes are consistent with the requirements of the Act. In this Order, the Commission advises NYSE that evaluative criteria and assessment of alternative measures are expected; where appropriate in the future, SROs should frame those evaluative criteria in their "pilot" rule submissions so that they may be stated in advance in the pilot approval order itself. For my part, I would expect just such a program of pre-framed criteria and concurrent evaluation of alternatives prior to any extension of these, or the initiation of any other, pilot rules.

[FR Doc. 90-15813 Filed 7-6-90; 8:45 am]

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[17] Such a system has been approved for the Midwest Stock Exchange, Inc. *See* note 13, *supra.*

[18] 15 U.S.C. 17s(b)(2) (1982).

[19] 17 CFR 200.30-3(a)(12) (1989).

[1] NYSE Rule 116.40(B) as proposed to be amended.

[2] *See* note 14, *supra* and accompanying text.

[3] File No. SR-NYSE-89-10, Form 19b-4 at 1-2.

[4] *Id.* at 3.

[5] File No. SR-NYSE-89-10, Letter from Richard A. Grasso dated October 25, 1989, at 2.

[6] *See* Securities Exchange Act Release No. 27384, October 26, 1989.

[7] Fleischman, *The "Unique Partnership" Between the SEC and the Self-regulatory Organizations,* address to the Legal Advisory Committee to the New York Stock Exchange Board of Directors, New York (July 29, 1988).

[8] *See* Order, *supra. See also* Securities Exchange Act Release No. 25599 at n. 25 (April 19, 1988).

[Rel. No. 34-28160; File No. SR-PSE-90-17]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to its Lead Market Maker System

On April 27, 1990, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change that would amend the Exchange's Lead Market Maker ("LMM") program. The proposed rule change was noticed in Securities Exchange Act Release No. 28035 (May 22, 1990), 55 FR 22132 (May 31, 1990). No comments were received on the proposed rule change.

The PSE's LMM system has operated since January 1990 as a pilot program that supplements the standard PSE options trading pit by establishing LMMs for certain options classes, primarily new options classes and existing options classes with comparatively low volume.[3] The LMM program is designed to enhance the market making mechanism on the PSE, thereby improving the markets for listed options on the Exchange and enhancing the PSE's ability to compete with other options exchanges.

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1990).

[3] *See* Securities Exchange Act Release No. 27631 (January 17, 1990), 55 FR 2462 (January 24, 1990) ("Pilot Approval Order").

PSE members appointed as LMMs assume responsibilities and acquire rights in their appointed options classes beyond the obligations and rights of market makers that trade in the same options class. Specifically, in addition to complying with the normal obligations of a market maker, the LMM is responsible for, among other things, ensuring the accurate dissemination of market quotations, determining the algorithm for the PSE's Auto-Quote System,[4] assuring that each market quotation is honored consistent with minimum obligations established by Exchange rules, and participating in applicable automatic execution systems. Moreover, an LMM must be present at the trading post for his LMM-designated options class throughout every trading day. In exchange for assuming these obligations, the LMM program permits the LMM to be allocated a 20% participation in transactions occurring in his appointed issues.

The purpose of the proposed rule change is to encourage greater market maker participation in the Exchange's LMM program. Specifically, the proposal increases from 20% to 50% the guaranteed LMM participation in transactions occurring on the LMM's disseminated bids and offers in its appointed issue(s). The Exchange's experience during the first several months of operation of the LMM system has led it to believe that the current 20% guranteed participation for LMMs is not sufficient to generate support from prospective LMM applicants. Accordingly, the Exchange believes that an increase in guaranteed participation to 50% will encourage more market makers to participate in the LMM program.

The proposal also sets forth specific volume conditions under which an option traded under the LMM system may be converted to the market maker system. In particular, the PSE proposes that an issue may be reassigned to the market maker system once trading in the issue reaches an average daily trading volume of 3,000 contracts at the Exchange for four consecutive months, immediately preceded by an Exchange average of 75% of the total multi-exchange trading volume for three consecutive months. The Exchange believes that specifying the precise volume conditions under which an LMM issue may be converted to the market maker system will likewise encourage participation in the LMM. Currently, the Exchange has no specific volume guidelines for the reassignment of options classes. The lack of specific guidelines raises doubts as to whether an LMM-designated options class may be prematurely reassigned to the market maker system, thereby diminishing the economic value to a market maker of becoming an LMM. The Exchange also believes the volume guidelines will protect market makers in general by establishing that, if the conditions are met, trading of the issue under the market maker system may be re-implemented.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) [5] because it is designed to perfect the mechanism of a free and open market and protect investors and the public interest.

As the Commission stated in the LMM program pilot approval order,[6] the Commission believes that the LMM program can improve the PSE's market making capabilities by creating long-term commitments to lower volume options classes that traditionally do not attract market makers. The result may be increased depth and liquidity in the markets for various options classes, and a greater flexibility in responding to varying market conditions.

In order for the LMM system to be successful, however, there must be sufficient incentives for market makers to become LMMs. According to the PSE, the program as it is currently structured has not drawn enough market maker interest. Accordingly, the Commission believes that the proposal likely will generate a higher level of interest among PSE market makers in the LMM program and will help make it more effective. Finally, the Commission believes it is reasonable for the PSE to provide that LMMs should have a 50% participation rate in transactions in light of the market making benefits provided by LMM's. Moreover, the Commission notes that the Chicago Board Options Exchange's ("CBOE") designated Primary Market Maker ("DPM") System, a system virtually identical to the LMM system, has used a 50% participation rate and that this rule has not adversely affected the CBOE options markets using a DPM.

The setting of levels for reversion to a market maker system also will enhance the effectiveness of the LMM program. The clarification of reversion criteria will help attract additional interest in the program by specifying when an LMM would have to relinquish his or her LMM rights and obligations. Although the volume levels set by the PSE are high in relation to the volume for PSE options, the levels are not discriminatory or anti-competitive, and therefore fall properly within the business discretion of the Exchange.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] That the proposed rule change (SR-PSE-90-17) hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Dated: June 28, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-15812 Filed 7-6-90; 8:45 am]

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[4] The PSE's Auto-Quote System allows market quotes to be generated systematically, using programmed theoretical models and variables.

[5] 15 U.S.C. 78f (1982).

[6] Pilot Approval Order, *supra* note 3.

[7] 15 U.S.C. 78(b)(2) (1982).

[8] 17 CFR 200.30-3(a)(12) (1990).

[Release No. 34-28165; File No. SR-NASD-90-32]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc., Notice of Filing and Order Granting Temporary Accelerated Approval to Proposed Rule Change Relating to Limit Order Capabilities of the Association's Small Order Execution System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 28, 1990 the National Association of Securities Dealers, Inc. ("NASD" or "Association)" filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would extend until December 31, 1990, the Commission's temporary approval of the limit order capabilities of the Association's Small Order Execution System ("SOES") which were approved and extended until June 29, 1990.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis, for the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis, for the Proposed Rule Change

The purpose of this filing is to extend the Commission's temporary approval of the SOES limit order system until December 31, 1990. This extension will allow the NASD to continue to monitor utilization of the system and will provide an opportunity for the Commission to consider the permanent approval of the limit order system with enhancements relative to crossing or matching of customer limit orders resident in the system. For a detailed description of the proposed limit order enhancements, see the amendment filed by the Association on December 18, 1990,[1] to filing No. SR–NASD–89–9 (which requests permanent approval of the SOES limit order file).

The statutory basis of for further development and implementation of SOES is found in section 11A(a)(1) (B) and (C)(i), section 15A(b)(6), and section 17A(a)(1) (B) and (C) of the Securities Exchange Act of 1934. Section 11A(a)(1) (B) and (C)(i) set forth the Congressional goal of achieving more efficient and effective market operations and the economically efficient execution of transactions through new data processing and communication techniques. Section 15A(b)(6) requires that the rules of the NASD be designed to foster cooperation and coordination with persons engaged in facilitating securities transactions and section 17A sets forth the Congressional goal of reducing costs involved in the clearance and settlement process through new data processing and communications techniques. The NASD believes that the modifications to SOES will further these ends by providing enhanced mechanisms for the efficient and economic execution and clearance of limit orders in over-the-counter securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association does not anticipate that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received with respect to the proposed rule change contained in this filing.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD requests that the Commission find good cause pursuant to section 19(b)(2) of the Act for approving the proposed rule change on a temporary basis prior to the thirtieth day after publication in the **Federal Register** and in any event before June 29, 1990, the date on which the temporary approval for the SOES Limit Order processing function expires. The Association believes that the enhancement to the SOES system is currently benefitting members and their public customers by providing an automated method of processing limit orders for all SOES participants that is comparable to proprietary systems now utilized by some member firms. In light of these factors, the NASD request that the Commission approve this rule change on an accelerated basis. During the term of the extension, the Commission will have the opportunity to consider permanent approval of the system with enhancements relating to the crossing of limit orders entered between the spread while providing members and their customers with the ongoing advantage of the ability to use the SOES limit order function.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and, in particular, the requirements of sections 11A(a)(1)(B), 15A(b)(6) and 17A(a)(1) (B) and (C) and the rules and regulations thereunder. The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of the filing thereof in that accelerated approval will benefit public investors by continuing to provide limit order storage and execution capabilities which can result in more efficient handling of customer orders. The Commission believes that the benefits of extending the temporary rule change until December 31, 1990 outweigh any potential adverse effects during the period of the rule change's effectiveness.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by

It is therefore ordered pursuant to section 19(b)(2) of the Act, That the above-mentioned proposed rule change be, and hereby is, approved. For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: June 29, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–15814 Filed 7–6–90; 8:45 am]

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[1] See Securities Exchange Act Release No. 27638 (January 19, 1990) 55 FR 2723 (January 26, 1990). Amendment No. 2 to SR–NASD–89–9, filed with the SEC on June 28, 1990, provides further enhancements to the proposal and is available for examination in the Commission's public reference room.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Chicago Board Options Exchange, Inc.

July 2, 1990.

The Chicago Board Options Exchange, Inc. ("CBOE") has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act") [1] and Rule

[1] 15 U.S.C. 781(F)(1) (1982).

12f-1 thereunder [2] for unlisted trading privileges ("UTP") in the securities listed below solely for the purpose of trading these securites as part of a market basket on the Standard & Poor's 500 and 100 Indexes ("Indexes"). [3]

Morrision Knudsen Corporation
Common Stock, $3.33⅓ Par Value (File No. 7-6001)
Cooper Tire & Rubber Company
Common Stock, $1.00 Par Value (File No. 7-6001)

The common stock of Morrision Knudsen Corporation and Cooper Tire & Rubber Company are listed and registered on the New York Stock Exchange, Inc. and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 19, 1990, written data, views and arguments concerning the above-reference application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Commentators are asked to address whether they believe the requested grants of UTP would be consistent with section 12(f)(2) of the Act. Under this section the Commission can only approve the UTP application if it finds, after this notice and opportunity for hearing, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-15771 Filed 7-6-90; 8:45 am]

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Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; New York Stock Exchange, Inc.

July 2, 1990.

The above named national securities exchange has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 12f-1 thereunder [2] for unlisted trading privileges ("UTP") in the security listed below solely for the purpose of trading the security as part of the Exchange Stock Portfolios ("ESPs") which are based on the Standard & Poors 500 Portfolio Index ("Index").[3]

Echo Bay Mines Ltd.
Common Stock, No Par Value (File No. 7-6002)

The stock is listed and registered on the American Stock Exchange, Inc. and last sale information relating to the stock is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 19, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Commentators are asked to address whether they believe the requested grants of UTP would be consistent with section 12(f)(2) of the Act. Under this section the Commission can only approve the UTP application if it finds, after this notice and opportunity for hearing, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-15772 Filed 7-6-90; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

July 2, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Alliance Global Environment Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-6003)
Clayton Homes, Inc.
Common Stock, $0.10 Par Value (File No. 7-6004)
Hartford Steam Boiler Inspection and Insurance Company
Common Stock, No Par Value (File No. 7-6005)
Hillhaven Corporation
Common Stock, $0.15 Par Value (File No. 7-6006)
LSI Logic Corporation
Common Stock, $0.01 Par Value (File No. 7-6007)
Mellon Bank Corporation
10.40% Series H Pfd. Stock, $1.00 Par Value (File No. 7-6008)
Thai Capital Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-6009)
U.S. BioScience, Inc.
Common Stock, $0.005 Par Value (File No. 7-6010)
Washington Real Estate Investment Trust
Shares of Beneficial Interest, No Par Value (File No. 7-6011)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 24, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-15773 Filed 7-6-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28147; File No. S7-33-86]

Joint Industry Plan; Order Relating to the Midwest Stock Exchange's Unlisted Trading Privileges on Certain Over-the-Counter Securities

I. Background

On April 29, 1987, the Commission approved a transaction reporting plan, submitted by the National Association of Securities Dealers, Inc. ("NASD") and the Midwest Stock Exchange ("MSE")

[2] 17 CFR 240.12f-1 (1989).

[3] *See* Securities Exchange Act Release No. 27383, (October 26, 1989) 54 FR 45846 approving the trading of baskets of stocks, based on the Indexes, at a single trading location on the exchange.

[1] 15 U.S.C. 781(f)(1) (1982).

[2] 17 CFR 240.12f-1 (1989).

[3] *See* Securities Exchange Act Release 27382 (October 26, 1989) 54 FR 45834 approving the trading of ESPs based on the Index.

governing the collection, processing and dissemination of quotation and transaction information on certain over-the-counter ("OTC") securities traded on an exchange on a listed or unlisted basis ("Interim Plan").[1] On the same day, the Commission approved the MSE's application for unlisted trading privileges ("UTP") in 25 OTC securities ("OTC/UTP").[2] Since that time, the MSE has been trading certain OTC securities on a UTP basis pursuant to those two orders.

In June, 1989, the NASD and the MSE, and the American, Boston, and Philadelphia Stock Exchanges submitted a transaction reporting plan ("Joint Plan") that eventually will supersede the Interim Plan.[3] In a comment letter on the Joint Plan, the MSE requested that the Commission's 1987 grant of OTC/UTP to the MSE be expanded to 100 securities.[4] Notice of the request was published in Securities Exchange Act Release No. 27178 (August 24, 1989), 54 FR 37067. The Commission received no comments on the request. For the reasons discussed below, the Commission has decided that it would be appropriate under the terms of the MSE Interim Plan for the MSE to expand that plan to include up to 100 OTC/UTP securities, assuming these securities otherwise meet the requirements for OTC/UTP.[5]

II. Discussion

In making its determination to expand the OTC/UTP grant, the Commission was persuaded by the MSE's experience under the Interim Plan. The MSE noted that in the two and one half years that it has traded 25 NASDAQ/NMS securities on a UTP basis, there have been no adverse impacts on the markets for the subject securities, no disruptive effects on the structure of the OTC market, and no other adverse consequences.

When the Commission first indicated its willingness to grant OTC/UTP to exchanges, it stated that the granting of UTP on additional NMS securities may be appropriate if no adverse consequences resulted from trading the securities under the pilot.[6] While it is important to note that the MSE's OTC/UTP program is not the pilot program that was comtemplated in the 1985 OTC/UTP Release, the experience gained under that program is instructive. During the last few years, the Commission has observed no significant impact on the market. Furthermore, commentators have not identified any market structure issues raised by the MSE's program.

The Commission believes that expansion to 100 securities of its grant of OTC/UTP to the MSE will enhance competition and market efficiency, and will result in a more meaningful model for evaluating the impact of exchange trading of NMS securities. Furthermore, such expansion might encourage exchange specialists to make greater commitments to OTC/UTP than they have thus far been willing to make.

It is important to note that this order is limited to providing the MSE authority to submit applications for OTC/UTP on 75 additional securities. The grant of OTC/UTP in specific securities would be pursuant to section 12(f) of the Act, and only after the notice and comment period specified in that Section. Furthermore, section 12(f)(2) requires that the Commission, prior to granting UTP for any security, must find that the grant is consistent with the maintenance of fair and orderly markets and the protection of investors. Before granting a UTP application in an OTC stock, the Commission must also consider, among other things, the public trading activity in the security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

III. Conclusion

For the reasons stated above, the Commission believes that it would be appropriate, pursuant to Section 11A of the Act and under the terms of the MSE Interim Plan, for the MSE to expand that plan to include up to 100 OTC/UTP securities, assuming those securities otherwise meet the requirements for OTC/UTP.

It is therefore ordered, pursuant to Section 11A of the Act, That the MSE Plan be, and hereby is, expanded to include up to 100 OTC/UTP securities.

Dated: June 26, 1990.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-15811 Filed 7-6-90; 8:45 am]

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[1] Securities Exchange Act Release No. 24407 (April 29, 1987), 52 FR 17349.

[2] Securities Exchange Act Release No. 24406 (April 29, 1987), 52 FR 17495.

[3] The Commission is issuing an order today approving that plan. *See* Securities Exchange Act Release No. 28146 (June 26, 1990) ("Joint Plan Adopting Release").

[4] The MSE also requested that a pilot program under the Joint Plan be expanded to 100 securities per exchange. *See* letter from J. Craig Long, Vice President, General Counsel and Secretary, MSE, to Jonathan G. Katz, Secretary, SEC, dated July 7, 1989.

[5] The Commission addressed the request to expand the pilot program under the Joint Plan in the Joint Plan Adapting Release.

[6] *See* Securities Exchange Act Release No. 22412 (September 16, 1985), 50 FR 38640. In that release the Commission stated that, if certain conditions were met, the Commission would be willing to grant exchanges OTC/UTP in up to 25 securities per exchange for a one-year pilot program. In addition, the Commission indicated that the end of the pilot program, it would evaluate OTC/UTP trading and consider whether to expand the grant of OTC/UTP to the exchanges.

[File No. 81-846]

Application and Opportunity for Hearing; Pharmacia Aktiebolag and Procordia Aktiebolag

June 29, 1990.

Notice is hereby given that Pharmacia Aktiebolag and Procordia Aktiebolag have filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order exempting Pharmacia from section 12(g) for purposes of sections 13(e) and 14(d) of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commisson in the Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person, not later than July 25, 1990 may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-15818 Filed 7-6-90; 8:45 am]

BILLING CODE 8010-01-M

Rel. No. IC-17555, International Series Release No. 131; File No. 812-7547]

Templeton, Galbraith & Hansberger Ltd., et al.; Notice of Application

June 28, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission")

ACTION: Amended Temporary Order of Exemption and Notice of Application for Permanent Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Templeton, Galbraith & Hansberger Ltd. ("Templeton Galbraith"), Templeton Management Limited ("Templeton Management") Templeton Investment Counsel, Inc., Templeton Global Bond Managers, Inc., John Templeton Counselors, Inc., Templeton Funds Distributor, Inc., and Templeton Funds Annuity Company (collectively "Applicants").

RELEVANT 1940 ACT SECTIONS: Sections 9(a) and 9(c) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek a temporary and a permanent order under section 9(c) of the 1940 Act exempting them from the provisions of section 9(a).

FILING DATE: The application was filed on June 28, 1990.

HEARING OR NOTIFICATION OF HEARING: A permanent order granting the application will be issued unless the SEC orders a hearing or extends the temporary exemption. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 27, 1990, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, c/o Alan Rosenblat, Esq., and Keith W. Vandivort, Esq., Dechert Price & Rhodes, 1500 K Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, (202) 272-3022, or Max Berueffy, Branch Chief, (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Templeton Galbraith, a Cayman Island corporation, whose principal place of business is in Nassau, Bahamas, owns directly and indirectly 100% of the voting securities and other interests in the other Applicants. Applicants collectively serve as investment advisers and/or principal underwriters for twelve registered management investment companies and as depositors for an insurance company separate account registered as a unit investment trust. As a group, Applicants had more than $17 billion under management as of December 31, 1989, $10 billion of which represented assets of registered investment companies.

2. On June 28, 1990, the Supreme Court of Ontario, Canada, issued an Order of Prohibition (the "Canadian Order") against Templeton Management prohibiting it and its successors and assigns from "discouraging or attempting to discourage" any Canadian broker or dealer selling investment company shares from "providing a rebate of part or all of its commission or a discount from its commission * * * to persons who purchase securities of any mutual fund of which [Templeton Management] is the trustee or manager." The Canadian Order also prohibits Templeton Management "from refusing to enter a dealer agreement, from refusing to supply securities of a mutual fund managed by it to, or from otherwise discriminating against any [Canadian broker or dealer] because of * * * discount or advertising practices with respect to commissions for the sale of such securities * * *." The Canadian Order, based on an agreed statement of facts, was issued by consent of Templeton Management. In consenting to the Canadian Order, Templeton Management did not admit to any violation of Canadian law.

3. The conduct which resulted in the Canadian Order allegedly violated certain provisions of the Canadian Competition Act[1] and occurred in connection with an agreement dated July 12, 1985 (the "Agreement") between Templeton Management and Gardiner Group Stockbrokers, Inc., a Canadian broker ("Gardiner"). The Agreement authorized Gardiner to sell securities of Templeton Growth Fund Limited ("Templeton Growth"), an open-end management investment company registered under the 1940 Act, and Templeton Canadian Fund ("Canadian Fund", and collectively, the "Funds"). The Agreement provided, among other things, that shares of the Funds could be offered and sold only at the offering price applicable to each purchase as set forth in the current prospectus of the respective Fund.

4. The prospectus for Templeton Growth, but not for the Canadian Fund, provided that a commission would be charged in connection with a sale of shares of Templeton Growth at fixed rates specified in the prospectus. Consistent with Rule 22d-1 under the 1940 Act, however, the prospectus did not state that discounts from the sales charged or rebates would be provided on an individually negotiated basis by certain broker-dealers. Such a practice would violate section 22(d) and Rule 22d-1 if conducted in the United States absent an exemption from these provisions. By letter dated August 22, 1985, Templeton Management terminated its Agreement with Gardiner because of its concern that Gardiner's commission rebate practices were inconsistent with the purchase terms set forth in the Templeton Growth prospectus and with the requirement under section 22(d) of the 1940 Act that the public offering price as stated in the prospectus be maintained.

Applicants' Legal Analysis

5. Section 9(a)(2) of the 1940 Act makes it unlawful for any person to serve or act as an investment adviser or depositor of any registered investment company, or as a principal underwriter for any registered open-end investment company, registered unit investment trust or registered face-amount certificate company, if such person, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice on connection with the pruchase or sale of any security. Section 9(a)(3) of the 1940 Act makes it unlawful for a company any affiliated person of which is ineligible by reason of Section 9(a)(2), to serve in the foregoing capacities. Templeton Galbraith is an affiliated person of Templeton Management by virtue of being its parent company. The other applicants are affiliated with Templeton Management because they are directly or indirectly controlled by Templeton Galbraith.

6. Section 9(c) provides that the SEC shall by order grant an application for exemption from Section 9(a), either

[1] § Can. Rev. Stat. c. C-34, s. 61(1)(b) (1985).

unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of that section, as applied to the applicant, are unduly or disproportionately severe, or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

7. Applicants submit that the prohibitions of section 9(a) of the 1940 Act, to the extent that they are operative as a result of entry of the Canadian Order, would be unduly and disproportionately severe as applied to applicants and that the conduct of Applicants has been such as not to make it against the public interest or protection of investors to grant the requested exemption.

8. Applicants state that the SEC should grant the permanent order because:

(a) The conduct which led to the issuance of the Canadian Order, while allegedly in violation of Canadian law, would not be illegal if carried out in the United States. Indeed, section 22(d) of the 1940 Act and Rule 22d–1 thereunder require that open-end investment company shares be sold at the current offering price described in the prospectus and prohibit individually negotiated discounts or rebates from the stated sales charge. Since the SEC has taken the position that section 22(d) applies to open-end investment company shares sold abroad, Applicants' conduct was mandatory under the 1940 Act, absent an exemptive order.[2] Thus, the alleged conduct underlying the Canadian Order was of such nature that it would not be against the public interest or the protection of investors for the SEC to grant the requested exemption.

(b) Applicants contend there is some doubt about whether the Canadian Order would result in an automatic bar under section 9(a) of the 1940 Act, because the order was issued by a foreign jurisdiction and pertains to conduct occurring outside the United States.[3] Nonetheless, Applicants seek a permanent exemptive order to dispel any uncertainty as to Applicants' status.

(c) Even assuming that the SEC regards the alleged conduct that led to the Canadian Order as improper, there is virtually no likelyhood that such conduct will be repeated. Applicants intend to comply fully with the Canadian Order. Applicants do not currently sell shares of any registered investment company in Canada. Templeton Growth now has only Canadian shareholders and has ceased to be a registered investment company under the 1940 Act.[4]

(d) The prohibitions of section 9(a) would be unduly and disproportionately severe as applied to Applicants, because such prohibitions, in substance, would deprive the investment companies and their shareholders of Applicants' investment advisory and distribution services and of their services performed as depositor for certain unit investment trusts. Such deprivation could significantly harm the financial interests of such funds and their shareholders, none of whom were involved in, or implicated by, the alleged conduct that gave rise to the Canadian Order.

(e) The prohibitions of section 9(a) would be unduly and disproportionately severe as applied to future affiliates of Applicants, because such prohibitions would have the effect of penalizing Applicants and such affiliates for conduct unconnected with the business or other activities of such affiliates.

(f) None of the Applicants has previously been the subject of a sanction that resulted in an automatic bar under section 9(a) or has ever previously applied for an exemption pursuant to section 9(c) from the provisions of section 9(a) of the 1940 Act.

9. Applicants acknowledge, understand and agree that the application and any temporary exemption issued by the SEC to Applicants shall be without prejudice to the SEC's consideration of their application for a permanent exemption pursuant to section 9(c) from the provisions of section 9(a) of the 1940 Act, or the revocation or removal of any temporary exemption granted in connection with the application.

Temporary Order

The Division has considered the matter and finds that, under the standards set forth in 17 CFR 200.30–5(a)(8) authorizing the Division Director to issue temporary orders pursuant to section 9(c) exempting applicants from section 9(a) for a period not exceeding 60 days, it appears that (i) the prohibitions of section 9(a) for a period not exceeding 60 days, as applied to the applicants, are unduly or disproportionately severe, (ii) the Applicants' conduct has been such as not to make it against the public interest or the protection of investors to grant the temporary exemption, and (iii) granting the temporary exemption would protect the interests of the investment companies being served by the Applicants by allowing time for the orderly consideration of the application for permanent relief.

Accordingly, it is ordered, under section 9(c) of the 1940 Act, that the Applicants, their affiliates, future affiliates, and successor and assigns are hereby temporarily exempted from the provisions of section 9(a) of the 1040 Act to the extent such provisions would become operative as a result of the entry of the Canadian Order, until August 27, 1990, unless the Commission takes final action on the application at an earlier date.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–15817 Filed 7–6–90; 8:45 am]

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[2] *See* Guidelines Concerning the Applicability of the Federal Securities Laws to the Offer and Sale outside the United States of Shares of Registered Open-End Investment Companies, Investment Company Act Rel. No. 6082 (June 23, 1970).

[3] For example, Applicants argue that pending legislative proposals would amend Section 9 of the 1940 Act by authorizing the Commission to initiate administrative proceedings against persons enjoined by foreign courts to prohibit them from serving in the capacities set forth in Section 9(a). *See* International Securities Enforcement Cooperation Act of 1989, H.R. 1396, 101st Cong., 1st Sess. (1989).

[4] *See* Investment Company Act Release Nos. 15804 (June 11, 1987) (notice) and 15843 (July 2, 1987) (order).

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended June 29, 1990

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47004.
Date filed: June 27, 1990.
Parties: Members of the International Air Transport Association.
Subject: Fare Levels From Turkey.
Proposed Effective Date: Upon necessary governments' approval.

Docket Number: 47005.
Date filed: June 27, 1990.
Parties: Members of the International Air Transport Association.
Subject: Canada-Middle East Expedited Resolutions.
Proposed Effective Date: July 1, 1990.

Docket Number: 47006.
Date filed: June 27, 1990.
Parties: Members of the International Air Transport Association.

Subject: USA/US Territories-Middle East Expedited Resolutions.
Proposed Effective Date: July 1, 1990.
Docket Number: 47011.
Date filed: June 29, 1990.
Parties: Members of the International Air Transport Association.
Subject: TC1-South Asian Subcontinent via Atlantic R-1 to R-3.
Proposed Effective Date: August 1, 1990.
Docket Number: 47012
Date filed: June 29, 1990.
Parties: Members of the International Air Transport Association.
Subject: USA/US Territories-Middle East Expedited Resolutions.
Proposed Effective Date: August 1, 1990.
Docket Number: 47013
Date filed: June 29, 1990.
Parties: Members of the International Air Transport Association.
Subject: TC1-South Asian Subcontinent via Atlantic 3.
Proposed Effective Date: August 1, 1990.
Docket Number: 47014.
Date filed: June 29, 1990.
Parties: Members of the International Air Transport Association.
Subject: Canada-Middle East Expedited Resolutions.
Proposed Effective Date: August 1, 1990.
Docket Number: 47015.
Date filed: June 29, 1990.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 416—GIT Fares Between Japan and Australia.
Proposed Effective Date: October 1, 1990.
Docket Number: 47016
Date filed: June 29, 1990.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 417—GIT Fares Between Japan And New Zealand.
Proposed Effective Date: October 1, 1990.
Docket Number: 47017
Date filed: June 29, 1990.
Parties: Members of the International Air Transport Association.
Subject: 11th Meeting of PAC-Expedited Resolution 834.
Proposed Effective Date: July 1, 1990.
Docket Number: 47019
Date filed: June 29, 1990.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 415—Fares From India To Europe R-1 to R-3.
Proposed Effective Date: July 10, 1990.

Phyllis T. Kaylor,
Chief, Documentary Service Division.
[FR Doc. 90-15768 Filed 7-6-90; 8:45 am]
BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended June 29, 1990

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47000.
Date filed: June 25, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 23, 1990.
Description: Application of United Air Lines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations for a certificate of public convenience and necessity to authorize service between Washington, DC and Manchester, England.

Docket Number: 47001.
Date filed: June 25, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 23, 1990.
Description: Application of United Air Lines, Inc. pursuant to section 401 of the Act and subpart Q of the Regulations, requests a certificate of public convenience and necessity to authorize service between Washington, DC, and Madrid, Spain.

Docket Number: 47008.
Date filed: June 28, 1990.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: July 26, 1990.
Description: Application of Continental Airlines, Inc. pursuant to section 401 of the Act and subpart Q of the Regulations, applies for a certificate of public convenience and necessity to authorize Continental to provide scheduled foreign air transportation of persons, property and mail between Newark, New Jersey, on the one hand, and West Berlin, Germany, on the other hand.

Docket Number: 47009.
Date filed: June 28, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 26, 1990.
Description: Application of Continental Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for a certificate of public convenience and necessity which would authorize Continental to provide scheduled foreign air transportation of persons, property and mail between Newark, New Jersey, on the one hand, and Moscow, Union of Soviet Socialist Republics ("USR"), on the other hand.

Docket Number: 47010.
Date filed: June 28, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 26, 1990.
Description: Application of Continental Airlines, Inc. pursuant to section 401 of the Act and subpart Q of the Regulations applies for a certificate of public convenience and necessity which would authorize Continental to provide scheduled foreign air transportation of persons, property and mail between Newark, New Jersey, on the one hand, and Moscow, Union of Soviet Socialist Republics ("USSR"), on the other hand.

Docket Number: 46930.
Date filed: June 28, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 26, 1990.
Description: Amendment No. 1 to the Application of Aerovias De Mexico, S.A. C.V., pursuant to section 402 of the Act and subpart Q of the Regulations, requests that segment 7 of the "Routes Applied For" as set forth in Exhibit AV-3 of the Application be amended to include rights beyond New York.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 15769 Filed 7-6-90; 8:45 am]
BILLING CODE 4910-62-M

Federal Railroad Administration

Petitions for Exemption or Waiver

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Denver and Rio Grande Western Railroad has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with requirements of the regulation entitled Hours of Service of Railroad Employees (49 CFR part 228).

Denver and Rio Grande Western Railroad (DRGW) FRA Waiver Petition Docket No. HSR-90-01

The DRGW seeks a permanent waiver of compliance with 49 CFR 228.17(a)(4). Section 228.17(a)(4) requires that "Each carrier shall keep, for each dispatching district, a record of train movements made under the direction and control of

a dispatcher who uses telegraph, telephone, radio, or any other electrical or mechanical device to dispatch, report, transmit, receive, or deliver orders pertaining to train movements * * * *". Subparagraph 4 of section 17(a) requires that weather conditions at 6 hour intervals be included in the record.

DRGW states that it seeks this waiver of the records requirements of the Hours of Service of Railroad Employees because it currently no longer has an on-line station to report weather conditions. DRGW, realizing the importance of weather extremes as they relate to rail operation, contracts with a weather forecasting service which reports weather conditions on a twenty-four hour basis.

The petitioner that granting the exemption is in the public interest and will not adversely affect safety.

Denver and Rio Grande Western Railroad (DRGW) FRA Waiver Petition Docket No. HSR-90-02

The DRGW seeks a permanent waiver of compliance with 49 CFR 228.11 which requires that "Each carrier shall keep a record of the following information concerning the hours of duty of each employee: (1) Identification of employee. (2) Place, date and beginning and ending times for hours on duty in each occupation. (3) Total time on duty in all occupations. (4) Number of consecutive hours off duty prior to going on duty. (5) Beginning and ending time of periods spent in transportation, other than personal commuting, to or from a duty assignment and mode of transportation (train, track car, carrier motor vehicle, personal automobile, etc.).

DRGW states that it seeks this waiver of the records requirements of the Hours of Service of Railroad Employees because it no longer uses the type of train dispatching system that allows for a written record. DRGW states that it now employs a computerized train dispatching and record keeping system along with a management level work scheduling method that closely monitors the items required.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety.

Interested persons are invited to participate in these proceedings by submitting written views and comments. FRA has not scheduled a public hearing since facts do not appear to so warrant. If any interested party desires a public hearing, he or she should notify FRA, in writing, before the end of the comment period and specify the basis for his or her request. Any communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number HSR-90-XX) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Communications received before August 31, 1990, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments during regular business hours (9 a.m.–5 p.m.) in room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC on June 28, 1990.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 90-15795 Filed 7-6-90; 8:45 am]

BILLING CODE 4910-06-M

Petitions for Waivers of Compliance

In accordance with 49 CFR §§ 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for waivers of compliance with certain requirements of the federal safety laws and regulations. The individual petitions are described below, including the parties seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

National Railroad Passenger Corporation

[Docket Number H-90-2]

The National Railroad Passenger Corporation (Amtrak) seeks a waiver of compliance from certain sections of 49 CFR part 231, Safety Appliance Standards, to allow it to run rail tests of RoadRailer equipment coupled to non-revenue passenger trains. These tests will be conducted in the Northeast Corridor at speeds up to 95 miles per hour.

Amtrak states that the RoadRailer equipment will consist of two Coupler Mate II interface vehicles, which will provide the connection between RoadRailer semi-trailers and conventional Amtrak passenger cars and locomotives equipped with standard automatic couplers. The front Coupler Mate II vehicle will couple to the rear of an Amtrak train and be capable of transmitting up to 400,000 pounds in buff and draft loads. The rear Coupler Mate II will serve as the rail truck supporting the last RoadRailer semi-trailer in the train and will provide a low speed towing or pushing capability using a locomotive or car with a conventional automatic coupler subject to a maximum buff and draft load of 100,000 pounds. Amtrak further states that between the Coupler Mate II vehicles will be three Mark V RoadRailer semi-trailers. Between the first and second and the second and third Mark V RoadRailer semi-trailer, the support will consist of two passenger car trucks.

The RoadRailer semi-trailers, by design, cannot be subjected to traditional switching procedures that are conducted in railroad classification yards. The RoadRailer coupler assembly will only couple to another RoadRailer vehicle or to a specially designed adaptor mechanism between the locomotive and a RoadRailer semi-trailer. The RoadRailer semi-trailer has no safety appliances and the test waiver will permit non-compliance with all the provisions of the Safety Appliance Standards (49 CFR part 231). These regulatory standards include provisions for the number, location and dimensional specifications for the handholds, ladders, sill steps and hand brakes that are required for each railroad freight car. The Mark V RoadRailer truck braking capability will be compatible with existing Amtrak passenger car air brake equipment. Prior to the testing by Amtrak, RoadRailer will conduct compression tests on the Coupler Mate II interface vehicle to confirm its structural capabilities when mated to a RoadRailer dry van semi-trailer in both front and rear positions.

The Amtrak rail test will be multiphased, beginning first with yard operations of assembling, disassembling, coupling, and uncoupling of the RoadRailer consist to passenger rail cars and locomotives. Following successful conclusion of these yard tests the RoadRailer consist will be coupled to non-revenue trains and a series of road braking tests conducted at varying speeds. Finally, road tests of both empty and loaded RoadRailers, up to the maximum requested speed, will be made to test the stability of the RoadRailer-passenger train consist.

Yolo Shortline Railroad Company

[Waiver Petition Docket Number RSGM-90-2 and SA-90-5]

The Yolo Shortline Railroad Company (Shortline), located in Sacramento, California, seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR part 223) and the Safety Appliance Standards (49 CFR part 231) for one locomotive, a General Electric industrial switcher number 50, which does not

presently comply with Federal regulations.

The Shortline proposes to operate over 9.7 miles of track between West Sacramento and Clarksburg, California. The terrain is basically flat farmland and the rail line traverses two single span bridges, six public grade crossings and eight private grade crossings. There is one shipper presently on the line generating between 25 to 70 carloads a year, and these are interchanged with the Union Pacific Railroad at Sacramento. The Shortline also plans to start a tourist excursion between West Sacramento, Riverview and Clarksburg, California.

Yorkrail, Incorporated

[Waiver Petition Docket Number RSGM-90-7]

Yorkrail, Incorporated (YKR), located in York, Pennsylvania, seeks a waiver of compliance with certain provisions of 49 CFR part 223, Safety Glazing Standards, for 10 locomotives. The railroad leases four locomotives daily from a pool of ten locomotives owned and maintained by the Maryland and Pennsylvania Railroad and both railroads are owned by Emmons Holdings, Incorporated. The 10 locomotives were constructed by the Electro Motive Division of the General Motors Corporation between 1937 and 1957.

The current operating speed limit on the YKR is 20 mph. The railroad presently operates approximately 90 engine hours per week on 16 miles of trackage, all within York County, Pennsylvania. The locomotives are presently equipped with standard safety glass and no safety problems resulting from glass breakage has occurred since the YKR commenced operations on February 19, 1989.

Rail Switching Services, Incorporated

[Waiver Petition Docket Number RSGM-90-8]

The Rail Switching Services, Incorporated (RRS), located in Dothan, Alabama, seeks a waiver of compliance with certain provisions of 49 CFR part 223, Safety Glazing Standards, for two locomotives.

The RRS is a contract switching company for 18 customers, mostly paper mills and chemical companies. The railroad operates almost exclusively on industry owned or leased trackage and operates in mostly rural areas in central Georgia. The RRS states that it has not experienced any acts of vandalism related to broken locomotive windows.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number H-90-2) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before August 31, 1990 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC on June 28, 1990.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 90-15796 Filed 7-6-90; 8:45 am]

BILLING CODE 4910-06-M

Petitions for Exemption or Waiver

In accordance with 49 CFR §§ 211.9 and 211.41, notice is hereby given that the following eleven railroads have petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with provisions of the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)).

The Hours of Service Act currently makes it unlawful for a railroad to require specified employees to remain on duty in excess of 12 hours. However, the Hours of Service Act contains a provision permitting a railroad which employs not more than 15 employees subject to the statute, to seek an exemption from the 12 hour limitation.

Youngstown and Southern Railway Company (YS)

[FRA Waiver Petition Docket No. HS-90-04]

The YS seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The YS states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The YS provides service over 36 miles of trackage between Youngstown and Darlington, Ohio.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Kankakee, Beaverville and Southern Railroad (KBSR)

[FRA Waiver Petition Docket No. HS-90-05]

The KBSR seeks a continuation of a previously issued exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The KBSR states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The KBSR provides service over 78 miles of trackage between Kankakee and Danville, Illinois.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

East Cooper and Berkley Railroad (ECBR)

[FRA Waiver Petition Docket No. HS-90-06]

The ECBR seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The ECBR states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The ECBR provides service over 15.5 miles of track in Berkeley County, between State Junction and Charity Church, South Carolina.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Port Royal Railroad (PRYL)

[FRA Waiver Petition Docket No. HS-90-07]

The PRYL seeks a continuation of a previously issued exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The PRYL states that it is not its intention to employ a train crew

over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The PRYL provides service over 25.5 miles of trackage between Yemassee and Beaufort, South Carolina.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this waiver.

Texas North Western Railway Company (TXNW)

[FRA Waiver Petition Docket No. HS–90–08]

The TXNW seeks a continuation of a previously issued exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The TXNW states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The TXNW provides service over 34 miles of trackage between Morse and Etter Junction, Texas.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Prescott and Northern Railroad Company (PNW)

[FRA Waiver Petition Docket No. HS–90–09]

The PNW seeks a continuation of a previously issued exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The PNW states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The PNW provides service over 32 miles of trackage between Prescott and Highland, Arkansas.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Green Mountain Railroad Corporation (GMRC)

[FRA Waiver Petition Docket No. HS–90–10]

The GMRC seeks a continuation of a previously issued exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The GMRC states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The GMRC provides service over 52 miles of trackage between Bellows Falls and Rutland, Vermont.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Seagraves, Whiteface and Lubbock Railroad (SWGR)

[FRA Waiver Petition Docket No. HS–90–11]

The SWGR seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The SWGR states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The SWGR provides service over 62 miles of trackage between Lubbock and Seagraves, Texas and 39.8 miles between Whiteface and Doud, Texas.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Floydada and Plainview Railroad Company (FAPR)

[FRA Waiver Petition Docket No. HS–90–12]

The FAPR seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The FAPR states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The FAPR provides service over 26.9 miles of trackage between Floydada and Plainview, Texas.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

McCloud River Railroad Company (MCR)

[FRA Waiver Petition Docket No. HS–90–13]

The MCR seeks a continuation of a previously issued exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The MCR states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The MCR provides service over 100 miles of trackage between Lookout and Burney, California.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Central Indiana and Western Railroad Company (CEIW)

[FRA Waiver Petition Docket No. HS–90–14]

The CEIW seeks a continuation of a previously issued exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The CEIW states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The CEIW provides service over 9 miles of trackage between Anderson and Lapel, Indiana.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 14 employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in these proceedings by submitting written views and comments. FRA has not scheduled a public hearing since facts do not appear to so warrant. If any interested party desires a public hearing, he or she should notify FRA, in writing, before the end of the comment period and specify the basis for his or her request. Any communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number HS–90–XX) and must be submitted in triplicate to the Docket Clerk, Office of

Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Communications received before August 31, 1990 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments during regular business hours (9 a.m.–5 p.m.) in room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC on June 28, 1990.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 90–15794 Filed 7–6–90; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

July 2, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0156.

Form Number: ATF F 2987 (5210.8).

Type of Review: Extension.

Title: Computation of Tax and Agreement to Pay Tax on Puerto Rican Cigars and Cigarettes.

Description: ATF F 2987 (5210.8) is used to calculate the tax due on cigars and cigarettes manufactured in Puerto Rico and shipped to the U.S. The form identifies the taxpayer, cigars or cigarettes by tax class and a certification by a U.S. Customs official as to the amount of shipment, and that the shipment has been released to the U.S.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 30.

Estimated Burden Hours Per Response: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 150 hours.

Clearance Officer: Robert Masarsky (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–15733 Filed 7–6–90; 8:45 am]

BILLING CODE 4810–31–M

Public Information Collection Requirements Submitted to OMB for Review

July 2, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0123.

Form Number: IRS Form 1120, Schedule D (Form 1120) and Schedule PH (Form 1120).

Type of Review: Revision.

Title: U.S. Corporation Income Tax Return (Form 1120); Capital Gains and Losses (Schedule D); and U.S. Personal Holding Company Tax (Schedule PH).

Description: Form 1120 is used by corporations to compute their taxable income and tax liability. Schedule D (Form 1120) is used by corporations to report gains and losses from the sale of capital assets. Schedule PH (Form 1120) is used by personal holding companies to compute their tax liability. The IRS uses these forms to determine whether or corporations have correctly computed their tax liability.

Respondents: Farms, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Responses/ Recordkeepers: 2,834,748.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 1120	Schedule D	Schedule PH
Recordkeeping	68 hrs., 24 min.	6 hrs., 28 min.	15 hrs., 32 min.
Learning about the law or the form	39 hrs., 51 min.	3 hrs., 41 min.	7 hrs., 6 min.
Preparing the form	70 hrs., 38 min.	6 hrs., 45 min.	9 hrs., 31 min.
Copying, assembling, and sending the form to IRS	8 hrs., 2 min.	48 min.	32 min.

Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 468,433,144 hours.
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–15734 Filed 7–6–90; 8:45 am]
BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

Grants Program for Private, Non-Profit Organizations In Support of International and Cultural Activities Involving Eastern Europe and the Soviet Union

The Office of Citizen Exchanges (formerly known as the Office of Private Sector Programs) of the U.S. Information Agency announces the availability of an Initiative Grant open to U.S. not-for-profit institutions to develop and administer a two-week study/observational tour for up to 10 post-secondary academic leaders and government officials, responsible for curriculum development in Eastern Europe and the Soviet Union; and a two-week follow-up visit to Eastern Europe and the Soviet Union by a delegation of no more than three American educators. Interested applicants are urged to read the complete **Federal Register** announcement prior to addressing inquiries to the Office.

General Information

The Office of Citizen Exchanges is a networking instrument that serves to link the international exchange interests of U.S. private sector non-profit institutions with counterpart institutions and organized groups in other countries.

Projects must feature an international people-to-people component, have a professional and cultural focus, and demonstrate a substantial contribution to long-term communication and understanding between the United States and the countries specified in this announcement.

Since programs focus on substantive issues of mutual interest, the office recommends the coordination of exchange program activities with the cultural and academic institutions noted above. The Office's projects are intellectual and cultural, not technical. Each private sector activity must maintain its nonpolitical character and shall be balanced and representative of the diversity of American political, social, and cultural life. Programs under the authority of the Bureau of Educational and Cultural Affairs shall maintain their scholarly integrity and shall meet the highest professional standards, and the participation of respected universities and/or professional associations and other major cultural institutions is encouraged.

Objectives of the Curriculum Development Program

USIA will accord highest priority in this competition to proposals which examine the curricular decision-making processes at a variety of American institutions of higher education and expose the delegation to academic and vocational options available to American students seeking post-secondary training. The project should familiarize participants with educational concepts such as core curricula, interdisciplinary studies, major/minor fields of study, "liberal arts" curricula, and administrative operations such as admissions, academic advising, faculty organization, the library, career counseling, graduation requirements, and accreditation.

The Office of Citizen Exchanges is interested in supporting programs that will lay the groundwork of new international linkages between American, Eastern European, and Soviet educational institutions, ultimately leading to an exchange of faculty members and students for completion of degree programs.

The Office is interested in reaching constituencies in Hungary, Poland, the German Democratic Republic, Czechoslovakia, Bulgaria and the Soviet Union. Participants will be selected by USIS officers at American embassies in these participating countries.

Basic Application Guidelines

The Office of Citizen Exchanges offers the following guidelines to prospective grant applicants:

Projects supported by the Office of Citizen Exchanges are intended to support USIA goals abroad as well as to assist U.S. private sector organizations in their efforts to advance international understanding in areas identified as important for bilateral relations. The Office welcomes clearly defined projects and requires that projects involve USIS posts in nomination of foreign participants with a view toward building ongoing institutional linkages between foreign and U.S. institutions.

Programs may take place anywhere in the United States or overseas in general accordance with the USIA program design.

Proposals should display sensitivity to translation and interpretation requirements, if any.

Programs taking place in the United States should feature some geographic diversity in order to expose foreign audiences to various regions.

Institutions must submit sixteen copies of the final grant proposal.

In applying for funds to cover conference costs, proposals should include a detailed agenda, clearly identified speakers/presenters (and the professional/academic credentials thereof), and a careful explanation of the role of participants from other countries in the conference. The participation of a respected university or scholarly organization would in many cases be advantageous. Further, the themes addressed in such meetings must be of long-term importance rather than focussed on current events or short-term issues. In every case, a substantial rationale for such meetings must be presented as part of the proposal, one that clearly indicates the distinctive and important contribution the conference or symposium will yield. Projects that duplicate what is routinely carried out by private sector and/or public sector operations will not be considered.

Upon receipt of a letter of interest from institutions, this office will send out a concept paper and grant application package which includes additional guidelines.

Funding and Budget Requirements

The Office of Citizen Exchanges requires co-funding with grantees in all projects. Proposals with less than 25% cost-sharing must provide particularly strong justification even in order to receive consideration.

Most funding assistance is limited to participant travel and per diem requirements with modest contributions to cover administrative costs (salaries, benefits, other direct and indirect costs) which may not exceed 20% of the total funds requested. The grantee institution may wish to share any of these expenses.

Grant applications should demonstrate substantial financial and in-kind support using a three-column format which clearly displays cost-sharing support of proposed projects. Following is a sample of the required format:

Line item	USIA support	Cost sharing	Total
Travel, per diem, etc..	.....	.....	.....
Total.....	$.....	$.....	$.....

USIA can provide approximately $70,000–$75,000 funding for the Curriculum Development Project.

Application Deadlines

In order to receive grant application materials, prospective applicants should express their interest in writing no later than three weeks from the publication date of this announcement to the Office of Citizen Exchanges at the address given below. Upon receipt of your letter of interest, E/PI will forward the project concept paper and all necessary application materials. Final proposals, complete with all necessary documentation and forms, will be due by close of business five weeks from the publication date of this announcement. Incomplete proposals will not be reviewed.

Proposals must be in accordance with Project Proposal Information Requirements (OMB #31180175).

For additional information and planning assistance relating to this grant award, prospective applicants should contact:

Katharine S. Guroff, Initiative Grants and Bilateral Accords Division, Office of Citizen Exchanges, United States Information Agency, 301 4th Street, SW., E/P room 220, Washington, DC 20547, ATTN: Curriculum Development Project.

Dated: June 29, 1990.

Stephen J. Schwartz,

Director, Office of Citizen Exchanges.

[FR Doc. 90–15809 Filed 7–6–90; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 131
Monday, July 9, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

AFRICAN DEVELOPMENT FOUNDATION

Board of Directors Meeting

TIME: 10:00 a.m.–1:00 p.m.

PLACE: African Development Foundation.

DATE: Friday, July 20, 1990.

STATUS: Open.

Agenda

1. Chairman's Report.
2. President's Report.
3. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Ms. Janis McCollim, 673–3916.

ADF Agency Number 11010008
ADF BOAC Number 953901

Leonard H. Robinson, Jr.,
President.

[FR Doc. 90–15943 Filed 7–5–90; 10:40 am]
BILLING CODE 6116-01-M

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"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Sent to Federal Register on June 18, 1990; Published 55 FR 25391 (June 21, 1990).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, July 12, 1990.

PLACE: 1111 20th Street, NW., Suite 450, Washington, DC. 20036.

STATUS: Closed meeting.

CHANGES IN THE MEETING: The time and date of the consideration of the adjustment of the syndicated exclusivity surcharge has been changed to 10 a.m., Monday, July 16, 1990.

CONTACT PERSON FOR MORE INFORMATION: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street, NW., Suite 450, Washington, DC. 20036 (202–653–5175).

Dated: July 3, 1990.

Mario F. Aguero,
Acting Chairman.

[FR Doc. 90–15920 Filed 7–3–90; 8:45 am]
BILLING CODE 6116-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:15 p.m. on Tuesday, July 10, 1990, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.
Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.
Recommendation regarding the contracting of consulting services.
Memorandum regarding the Corporation's corporate activities.
Discussion Agenda:
Memorandum re: Requests by industry associations for extension of the July 29, 1990 deadline by which institutions are required to mail notification to their depositors describing upcoming changes in deposit insurance coverage, which deadline was established by final amendments to parts 330 and 331 of the Corporation's rules and regulations entitled "Clarification and Definition of Deposit Insurance Coverage," and "Insurance of Trust Funds," respectively.
Memorandum and resolution re: Part 337 of the Corporation's rules and regulations, entitled "Unsafe or Unsound Banking Practices," which prohibits the acceptance or renewal of brokered deposits by any undercapitalized insured depository institution after December 7, 1989, except on specific application to and waiver of the prohibition by the Corporation.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: July 3, 1990.

Federal Deposit Insurance Corporation.

M. Jane Williamson,
Assistant Executive Secretary.

[FR Doc. 90–15918 Filed 7–3–90; 4:54 pm]
BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:45 p.m. on July 10, 1990, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment, of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:
Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)),

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendation regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 47,583—Various Banks and Savings and Loans Nationwide Loan Servicer Contract

Reports of the Office of Inspector General:
Audit Report re: Houston Consolidated Office, Cost Center 405 (Memo dated June 6, 1990)
Audit Report re: San Francisco Regional Office, Cost Center 610 (Memo dated June 6, 1990)
Audit Report re: Ensign Bank, Federal Savings Bank, Hialeah, Florida, Assistance Agreement, Case Number: C-199c (Memo dated June 8, 1990)
Audit Report re: Mutual Home and Savings Association, Decatur, Illinois, Assistance Agreement, Case Number: C-134c (Memo date May 15, 1990)
Audit Report re: Special Asset Bank Agreed Upon Procedures Report (Memo dated May 16, 1990)
Audit Report re: Follow-up of NFC Payroll Audit Report (Memo dated May 30, 1990)

Discussion Agenda

Application for consent to merge:
First American Bank and Trust Company, Purcell, Oklahoma, an insured State nonmember bank, for the Corporation's consent to merge, under its charter and title, with First American Holding Company, Purcell, Oklahoma, a noninsured institution which is the parent of First American Bank and Trust Company.
Request of Wauwatosa Savings and Loan Association, Wauwatosa, Wisconsin, regarding its voluntary withdrawal from membership in the Federal Home Loan Bank system.
Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:
Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 522b (c)(2) and (c)(6)).
Matters relating to the possible closing of certain insured banks:
Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).
Matters concerning the Corporation's assistance agreement with an insured bank.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: July 3, 1990.

Federal Deposit Insurance Corporation.

M. Jane Williamson,

Asistant Executive Secretary.

[FR Doc. 90-15919 Filed 7-3-90; 8:45 am]

BILLING CODE 6714-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

AGENCY: Institute of Museum Services.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (Pub. L. 94-409) and regulations of the Institute of Museum Services, 45 CFR 1180.84.

TIME AND DATE: 9:00 a.m., Friday, July 27th, 1990.

STATUS: Open.

ADDRESSES: Sears House, 633 Pennsylvania Avenue NW., Washington, DC. 20004 (202) 737-4900.

FOR FURTHER INFORMATION CONTACT: William Laney, Executive Assistant to the National Museum Services Board, room 510, 1100 Pennsylvania Avenue NW., Washington, DC. 20506 (202) 786-0536.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Public Law 94-462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under the Museum Services Act.

The meeting of July 27, 1990, will be open to the public.

If you need special accommodations due to a disability, please contact: Institute of Museum Services, room 510 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 786-0536, TDD (202) 786-9136 at least seven (7) days prior to the meeting.

I. NMSB Chairman's Report & Approval of Minutes of April 27, 1990 Meeting
II. IMS Director's Report
III. Update Report on Independent Evaluation
IV. AAM Development & Membership Committee Report
V. Discussion of GOS Funding Percentages
VI. Conservation Project Support Report
VII. Professional Services Program Report
VIII. Other IMS Programs and Issues
IX. NMSB Open Agenda

Dated: July 2, 1990.

Daphne Wood Murray,

Institute of Museum Services.

[FR Doc. 90-15924 Filed 7-5-90; 10:39 am]

BILLING CODE 7036-01-M

RESOLUTION TRUST CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:07 a.m. on Friday June 29, 1990, the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to (1) recommendations regarding retention of thrift branches acquired by banks in emergency acquisitions; and (2) recommendations regarding Operating Plan and Projected Funding Requirement for the Fourth Quarter Fiscal Year 1990.

In calling the meeting, the Board determined, on motion of Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director C.C. Hope, Jr. (Appointive), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10).

The meeting was held in the Board Room of the Federal Deposit Insurance Corporation Building located at 550-17th Street NW., Washington, DC.

Dated: June 29, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90-15980 Filed 7-5-90; 1:47 pm]

BILLING CODE 6714-01-M

RESOLUTION TRUST CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Resolution

Trust Corporation will meet in open session at 2 p.m. on Tuesday, July 10, 1990 to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Discussion Agenda:

A. *Memorandum re:* Accelerated Resolution Policy.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Resolution Trust Corporation, at (202) 416–7282.

Dated: July 3, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90–15981 Filed 7–5–90; 1:47 pm]

BILLING CODE 6714-01-M

Corrections

Federal Register
Vol. 55, No. 131
Monday, July 9, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1222

RIN 3095-AA45

Creation and Maintenance of Records; Adequate and Proper Documentation

Correction

In rule document 90-15442 beginning on page 27422 in the issue of Monday, July 2, 1990, make the following correction:

§ 1222.36 [Corrected]

On page 27425, in the first column, in § 1222.36(b), in the second line, the word "designate" should read "designated".

BILLING CODE 1505-01-D

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

RIN 3095-AA46

Disposition of Federal Records

Correction

In rule document 90-15443, beginning on page 27426, in the issue of Monday, July 2, 1990, make the following correction:

§ 1228.26 [Corrected]

On page 27429, in the third column, in § 1228.26(a)(2), insert the word "changed" between "otherwise" and "in".

BILLING CODE 1505-01-D

federal register

Monday
July 9, 1990

Part II

Department of Education

34 CFR Part 445

Technology Education Demonstration Program; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 445

RIN 1830-AA07

Technology Education Demonstration Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes to issue regulations governing the Technology Education Demonstration Program. This program is authorized by title VI, subtitle B, chapter 2, of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418). These regulations explain the types of activities the Secretary may support, how to apply for an award, and the basis on which the Secretary would make awards.

DATES: Comments must be received on or before August 23, 1990.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Dr. Thomas L. Johns, Director, Policy Analysis Staff, Office of Vocational and Adult Education, U.S. Department of Education (Mary E. Switzer Building, Room 4525), 400 Maryland Avenue SW., Washington, DC 20202-7120. Telephone: (202) 732-2237.

A copy of any comments that concern information requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Mrs. Sharon A. Jones, Program Analyst, U.S. Department of Education (Mary E. Switzer Building, Room 4525), 400 Maryland Avenue SW., Washington, DC 20202-7120. Telephone: (202) 732-2470.

SUPPLEMENTARY INFORMATION: The Omnibus Trade and Competitiveness Act of 1988 (Act) (Pub. L. 100-418) was signed into law on August 23, 1988. Title VI, subtitle B, chapter 2 establishes the Technology Education Demonstration Program covered by these regulations. The purpose of the Technology Education Demonstration Program is to provide assistance in the development of a technologically literate population through instructional programs in technology education. The Secretary carries out this purpose by providing a discretionary grant program that establishes no more than 10 demonstration projects in technology education for secondary schools, vocational education centers, and community colleges.

The regulations describe eligible applicants, program priorities, criteria for evaluating applications, cost sharing requirements, and post award conditions. (Secs. 445.2, 445.20, 445.22, 445.30, 445.31, respectively.)

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. To the extent that these regulations have an impact on small entities, they respect statutory requirements.

The selection criteria for applications reviewed under this program require the minimum amount of information necessary for a fair appraisal of the activities proposed by applicants in order to ensure the funding of high quality projects.

Paperwork Reduction Act of 1980

Sections 445.22 and 445.31 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503, Attention: James D. Houser.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 4525, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week, except Federal holidays.

To assist the Department in complying with specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 445

Colleges and universities, Community colleges, Education, Equal employment opportunity, Grant programs, Reporting and recordkeeping requirements, Schools, Secondary education, Technology, and Vocational education.

(Catalog of Federal Domestic Assistance Number 84.230 Technology Education Demonstration Program)

Dated: May 7, 1990.

Lauro F. Cavazos,

Secretary of Education.

The Secretary proposes to amend title 34 of the Code of Federal Regulations by adding a new part 445 to read as follows:

PART 445—TECHNOLOGY EDUCATION DEMONSTRATION PROGRAM

Subpart A—General

Sec.

Subpart B—[Reserved]

Subpart C—How Does the Secretary Make an Award?

Authority: 20 U.S.C. 5101 through 5106, unless otherwise noted.

Subpart A—General

§ 445.1 What is the Technology Education Demonstration Program?

The purpose of the Technology Education Demonstration Program is to provide assistance in the development of a technologically literate population through instructional programs in technology education. The Secretary implements this purpose by providing assistance for no more than ten demonstration projects to develop model programs for technology education for secondary schools, vocational educational centers, and community colleges.

(Authority: 20 U.S.C. 5101 and 5102)

§ 445.2 Who is eligible for an award?

Local educational agencies; State educational agencies; consortia of public and private agencies, organizations, and institutions; and institutions of higher education are eligible for a direct grant under this program.

Cross-Reference: See 34 CFR 75.127 through 75.129, Group Applications.

(Authority: 20 U.S.C. 5102)

§ 445.3 What activities may the Secretary fund?

The Secretary provides grants for projects to develop model programs for technology education that, to the extent practicable, address the following components:

(a) Educational course content based on—

(1) An organized set of concepts, processes, and systems that is uniquely technological and relevant to the changing needs of the workplace; and

(2) Fundamental knowledge about the development of technology and its effect on people, the environment, and culture.

(b) Instructional content drawn from the introduction to technology education courses in one or more of the following areas:

(1) Communication—efficiently using resources to transfer information to extend human potential.

(2) Construction—efficiently using resources to build structures on a site.

(3) Manufacturing—efficiently using resources to extract and convert raw or recycled materials into industrial and consumer goods.

(4) Transportation—efficiently using resources to obtain time and place utility and to attain and maintain direct physical contact and exchange among individuals and societal units through movement of materials, goods, and people.

(c) Assisting students in developing insight, understanding, and application of technological concepts, processes, and systems.

(d) Educating students in the safe and efficient use of tools, materials, machines, processes, and technical concepts.

(e) Developing student skills, creative abilities, confidence, and individual potential in using technology.

(f) Developing student problem-solving and decision-making abilities involving technological systems.

(g) Preparing students for lifelong learning in a technological society.

(h) Activity oriented laboratory instruction that reinforces abstract concepts with concrete experiences.

(i) An institute for the purpose of developing teacher capability in the area of technology education.

(j) Research and development of curriculum materials for use in technology education programs.

(k) Multidisciplinary teacher workshops for the integration of mathematics, science, and technology education.

(l) Employment of a curriculum specialist to provide technical assistance for the program.

(m) Stressing basic remedial skills in conjunction with training and automation literacy, robotics, computer-aided design, and other areas of computer-integrated manufacturing technology.

(n) A combined emphasis on "know-how" and "ability-to-do" in carrying out technological work.

(Authority: 20 U.S.C. 5102(b))

§ 445.4 What regulations apply?

The following regulations apply to the Technology Education Demonstration Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations.

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 85 (Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)).

(b) The regulations in this part 445.

(Authority: 20 U.S.C. 5101 through 5106)

§ 445.5 What definitions apply?

(a) *Definition in the Act.* The following term used in this part is defined in section 6116 of the Act:

"Technology education" means a comprehensive educational process designed to develop a population that is knowledgeable about technology, its evolution, systems, techniques, utilization in industry and other fields, and social and cultural significance.

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Budget
EDGAR
Grant
Grantee
Private
Project
Public
Secondary school
Secretary
Subgrant
State
State educational agency

(c) *Other definitions.* The following definitions also apply to this part:

Act means title VI, subtitle B, chapter 2 of Public Law 100–418, the Omnibus Trade and Competitiveness Act of 1988 (20 U.S.C. 5101 through 5106).

Institution of Higher Education has the same meaning given to that term in section 1201(a) of the Higher Education Act of 1965.

Local educational agency has the same meaning given to that term in 34 CFR 77.1(c) and includes any other public educational institution or agency having administrative control and direction of a vocational education program.

(Authority: 20 U.S.C. 5101 through 5106)

Subpart B—[Reserved]

Subpart C—How Does the Secretary Make an Award?

§ 445.20 What priorities may the Secretary establish?

(a) The Secretary may announce through one or more notices published in the **Federal Register** the priorities for this program, if any, from the list of priorities described in paragraphs (b) and (c) of this section.

(b) To the extent feasible, priority is given to demonstration projects that develop model programs that address the largest number of components listed in paragraphs (a) through (k) of § 445.3.

(c) Priority may be given to projects that address one or more of the components listed in § 445.3.

(Authority: 20 U.S.C. 5102)

§ 445.21 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application for a grant on the basis of the criteria in § 445.22.

(b) The Secretary may award up to 100 points, including a reserved 10 points to be distributed in accordance with paragraph (d) of this section, based on the criteria in § 445.22.

(c) Subject to paragraph (d) of this section, the maximum possible score for each criterion is indicated in parentheses.

(d) For each competition as announced through a notice published in the **Federal Register**, the Secretary may assign the reserved points among the criteria in § 445.22.

(Authority: 20 U.S.C. 5103)

§ 445.22 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Educational significance of the proposed demonstration project.* (15 points) The Secretary reviews each application to determine how well it meets the purposes of the Technology Education Demonstration Program, including—

(1) A clear description of what the proposed project intends to demonstrate;

(2) A clear description of how the proposed project will improve programs in technology education and will promote the development of a technologically literate population; and

(3)(i) If the proposed project will demonstrate an existing model, empirical data that shows the effectiveness of the proposed model; or

(ii) If the proposed project will demonstrate a new model, a clear description of how the proposed model could be adapted in other educational settings.

(b) *Project objectives.* (10 points) The Secretary reviews each application to determine the extent to which the project objectives—

(1) Relate to the purposes of the program; and

(2) Are attainable and measurable.

(c) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the proposed project, including—

(1) The quality of the design of the project;

(2) The extent to which the plan of management is effective, ensures proper and efficient administration of the project, and includes timelines that show starting and ending dates for all tasks, activities, and significant events;

(3) Specific procedures that clearly describe how the project's objectives will be accomplished;

(4) The way the applicant plans to use its resources and personnel to achieve each objective;

(5) A description of the manner in which project activities will be coordinated, to the extent practicable, with programs under the Job Training Partnership Act, the Carl D. Perkins Vocational Act; and other Acts related to the purposes of the Technology Education Demonstration Program; and

(6) If the proposed project will provide instruction to students, a description of how the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(d) *Quality of key personnel.* (10 points) (1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the proposed project, including—

(i) The qualifications and experience of the project director;

(ii) The documentation of the project director's availability at the start of the project and a time commitment to the project of at least fifty percent;

(iii) The qualifications and experience of each of the other key personnel to be used on the project;

(iv) The time that each person referred to in paragraphs (d)(1) (i) and (iii) of this section will commit to the project; and

(v) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(2) To determine personnel qualifications under paragraphs (d)(1) (i) and (iii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project;

(ii) Experience and training in project management; and

(iii) Any other qualifications that pertain to the quality of the project.

(e) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The proposed expenditures for each budget category are justified in a budget narrative; and

(2) Costs are necessary and reasonable, and budget category totals are itemized.

(f) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the plan—

(1) Includes specific procedures for—

(i) A formative evaluation to help guide and improve the project; and

(ii) A summative evaluation;

(2) Includes a description of the quantifiable data to be collected based on the project objectives, including, as appropriate, information on—

(i) The demographic characteristics of individual participants and the schools which they attend;

(ii) The services provided to participants, including information on duration, intensity, and costs;

(iii) The characteristics, background, and training of staff used in the project; and

(iv) The implementation of the project, including any obstacles to implementation and how those obstacles were overcome.

(3) Specifies the procedures to be used in data collection, including the frequency with which data will be collected;

(4) Describes how the data will be analyzed, including the statistical techniques to be used;

(5) Describes how achievement of project objectives will be measured, including the empirical measures that will be used to measure progress toward each of the stated project objectives.

(g) *Dissemination plan.* (10 points) The Secretary reviews each application to determine the quality of the dissemination plan for the project, including—

(1) A description of the materials, product(s), packages, or handbooks the applicant plans to make available;

(2) A clear description of the dissemination procedures; and

(3) Provisions for publicizing the findings of the project at the local, State, and national levels, as appropriate.

(Authority: 20 U.S.C. 5103)

§ 445.23 What additional factors does the Secretary consider?

In addition to the criteria in § 445.22—

(a) The Secretary considers whether funding a particular applicant would contribute to the equitable geographical distribution of projects funded under this program; and

(b) The Secretary may consider whether funding a particular applicant would contribute to the funding of a variety of approaches to technology education.

(Authority: 20 U.S.C. 5103(c))

§ 445.24 May the Secretary restrict the use of funds for equipment?

The Secretary may restrict the amount of funds made available for equipment purchases to a certain percentage of the total grant for a project. The Secretary may announce through a notice published in the **Federal Register** the percentage of project funds that may be used for the purchase of equipment.

(Authority: 20 U.S.C. 5101 through 5106)

Subpart D—What Conditions Must Be Met after an Award?

§ 445.30 What are the cost sharing requirements?

(a) The Federal share of the total cost for a Technology Education project may not exceed 65 percent of the total cost of the project.

(b) At least ten percent of the total cost of the project must be provided from contribitions from the private sector.

(c) Non-Federal contributions may be in cash or fairly valued in-kind contributions, including facilities, overhead, personnel, and equipment.

Cross-Reference: See 34 CFR Part 74, Subpart G—Cost Sharing or Matching and 34 CFR 80.24.

(Authority: 20 U.S.C. 5102(c))

§ 445.31 What other requirements must be met under this program?

(a) Grantees shall ensure that Federal funds made available under this program are used to supplement and, to the extent practicable increase the amount of State and local funds that would in the absence of those Federal funds be made available for the uses specified in this program, and in no case supplant those State or local funds.

(b) Grantees shall make reports in the form and containing the information the Secretary may require, including—

(1) A final report; and

(2)A handbook that describes the procedures others may follow to replicate the project.

(c) Grantees shall ensure that any products or evaluation reports produced by their projects are in a form that can be disseminated to benefit the training of teachers, other instructional personnel, counselors, and administrators.

(Authority: 20 U.S.C. 5103(b) and 5104)

[FR Doc. 90-15834 Filed 7-6-90; 8:45 am]

BILLING CODE 4000-01-M

Reader Aids

Federal Register

Vol. 55, No. 131

Monday, July 9, 1990

INFORMATION AND ASSISTANCE

FEDERAL REGISTER PAGES AND DATES, JULY

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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LIST OF PUBLIC LAWS

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet from (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 1622/Pub. L. 101-318

Copyright Fees and Technical Amendments Act of 1989. (July 3, 1990; 104 Stat. 287; 3 pages) Price: $1.00

H.R. 3046/Pub. L. 101-319

Copyright Royalty Tribunal Reform and Miscellaneous Pay Act of 1989. (July 3, 1990; 104 Stat. 290; 2 pages) Price: $1.00

H.R. 3545/Pub. L. 101-320

To amend the Chesapeake and Ohio Canal Development Act to make certain changes relating to the Chesapeake and Ohio Canal National Historical Park Commission. (July 3, 1990; 104 Stat. 292; 1 page) Price: $1.00

H.R. 3834/Pub. L. 101-321

Selma to Montgomery National Trail Study Act of 1989. (July 3, 1990; 104 Stat. 293; 2 pages) Price: $1.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

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3 (1989 Compilation and Parts 100 and 101)	11.00	[1] Jan. 1, 1990
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1500-1899	11.00	Jan. 1, 1990
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[2] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1989. The CFR volume issued January 1, 1987, should be retained.

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[4] The July 1, 1985 edition of 32 CFR Parts 1–139 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

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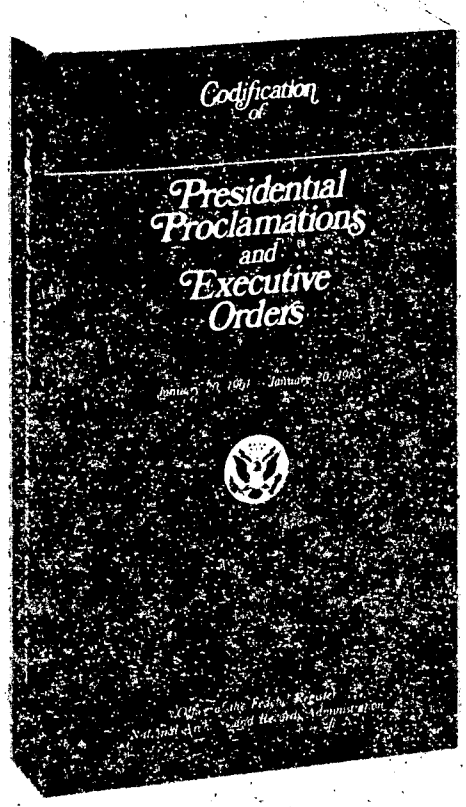

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